

Court Dismisses Rights Suit In Death of Negro at Dawson

The Atlanta Constitution, Atlanta, Ga.

File 6/3/68
MACON (AP)—A civil rights damage suit brought against Dawson police and the Terrell County sheriff for \$180,448 in the death of a 31-year-old Negro man was dismissed Thursday by Judge W. A. Bootle in U.S. District Court.

The judge quoted the language of the civil rights act which he said gives a person injured through deprivation of civil rights the right to sue in federal court but gives no such right to his survivors or estate after his death.

Judge Bootle granted a motion filed by defense attorney Charles J. Bloch of Macon claiming the civil rights law under which the suit was brought gives no right of action by the estate of an injured party after his death. "The right of action which James Brazier might have been vested with, had he lived, was extinguished with his death," Judge Bootle said. "There being no federal statute giving this plaintiff (Mrs. Brazier) a cause of action for the wrongful death of her husband, this action cannot be maintained."

The suit was brought by Mrs. Hattie Brazier, individually and as administrator of the estate of James Brazier, in the Americus division of the Middle District of Georgia.

Defendants named in the suit were W. B. Cherry, Randolph McDonald and Shirah Chatman, identified as Dawson policemen, Howard Lee, Dawson police chief, and Zachry T. Mathews, Terrell County sheriff, and the Fidelity Casualty Co. of New York, bonding company for the sheriff.

Mrs. Brazier claimed her husband was illegally arrested by Cherry and McDonald and that while in custody, during the night of April 20, 1958, he was "illegally removed from the jail, severely beaten about the head and body by the law enforcement men "after which he was returned to said jail."

She claims he died as a result of the injuries on April 25, 1958, without having regained consciousness.

Judge Bootle's ruling, filed in the court clerk's office here and forwarded to the Americus division office, said that "after careful study and consideration, this court is of the opinion that defendant's motion must be granted. The court has taken the allegations of the complaint as amended as true."

12a 1960

U.S. DISTRICT COURT

VOTING- LOUISIANA

Judge Orders Opening Of Louisiana Vote File

Montgomery Advertiser
NEW ORLEANS (AP) — U.S. District Judge J. Skelly Wright Monday ordered the East Feliciana Parish registrar of voters to make all of his voting records available to the U.S. attorney general.

Wright directed the order to Henry Earl Palmer, the registrar of East Feliciana, and was signed on the request of the U.S. attorney general under the 1960 Civil Rights Act.

The decision means:
Palmer shall make available to the attorney general or his authorized representatives for the purpose of inspection, reproduction and copying all records or papers in his possession, custody, or control relating to any application, registration or other act requisite to voting in any general, special or primary election for federal office.

The court also ordered that the inspection be made available at the registrar's principal office in Clinton on Aug. 8 and thereafter until the inspection and copying are completed.

Wright had this comment:
"Whatever reservations some sincere people may have regarding desegregation in the public schools, no honest American can condone depriving a citizen of his right to vote. Congress, through Title 3 of the Civil Rights Act of 1960, has sought to protect this right. There can be no doubt that Title 3 is appropriate legislation under the 15th Amendment of the Constitution."

The attorney general asked earlier for the East Feliciana records and those of two other parishes on May 23 to determine if there was discrimination against Negroes.

State Atty. Gen. Jack Gremlion has advised the parish registrars not to surrender the records.

Gremlion argued that the federal government's request for the records did not comply with the 1960 civil rights law which contains a provision that such demands "must contain a basis for charges."

Gremlion argued that the request was clearly a criminal proceeding because the new civil rights law provides penalties for election officers who fail to keep such records.

Refused Dance The Informer Lessons-Gets Hawson, Tex. \$400 Damages

BOSTON (ANP) — The Supreme Judicial Council has upheld an award of \$400 to David H. Crawford, who contended that he was refused dancing lessons because of his race.

The suit had been brought by Crawford against the Robert L. Kent, Inc., studios, operator of a local dancing school.

The defendants tried unsuccessfully to claim exemption from the state anti-discrimination law by stating that dancing was educational.

Cop Victim's Widow Paid \$17,500

The Pittsburgh Courier
NEW YORK—A Harlem widow whose husband was shot to death by a white cop seven years ago was paid \$17,500 for the loss she suffered. Supreme Court Justice Frank Gulotta revealed here as the trial was halted in the midst of the policeman's testimony.

She is Mrs. Frederick North. The victim, employed as a butler-chauffeur in a Great Neck millionaire family when the tragedy occurred, was slain during a traffic snafu. One bullet entered his head—another pierced his heart.

THROUGH her lawyer, Lawrence R. Bailey, Mrs. North had sued both the cop and Nassau County because the policemen, Charles Wermelinger, worked for the township of East Williston.

The original suit demanded \$150,000 for the loss of Mrs. North's husband.

It was a unique victory for the widow and Mr. Bailey because Nassau County, once infamous for its Ku Klux Klan cross-burnings on the lawns of Negro home owners, has been labeled "a bad climate" for Negro lawyers with cases of this kind, and also because county officials had occasionally predicted that not a dime would be paid to settle the North case.

But Mr. Bailey's relentless cross-examination of the cop, a climax to three days of testimony, turned the tide unexpectedly.

At the time Wermelinger had enmeshed himself in a web of contradictions, much to the embarrassment of County Atty. LeRoy Edwards.

North and his wife, Lenora, were employed in the home of Jack Liebowitz, the wealthy comics book publisher, when the tragedy occurred on June 25, 1953.

Mr. Bailey was assisted in the case by Jeff Greenup, his office associate, who is equally well known in NAACP affairs.



**JEFF GREENUP, LAWRENCE R. BAILEY and
MRS. LENORA NORTH**

... from her husband's death a \$17,500 victory

Richmond lawyers win huge award

*The Afro-American
Baltimore Md. Sat 5/28/68
p. 20*

RICHMOND
Claiming that the automobile which collided with theirs was improperly manufactured, a Virginia couple won a \$17,000 out-of-court settlement for personal injuries last week.

Mrs. Rebecca J. Benn was granted a \$15,000 award; while a \$2,000 settlement was made to her husband, Wesley W. Benn, an employee of Norfolk Naval Base.

The couple, living in Suffolk, Va. was represented by Richmond attorneys, Herman T. Benn, a brother of the husband; and Richard M. Ballard Jr.

With Mr. Benn at the wheel, the couple was driving in Nansemond County near their home when an accident occurred on State Highway 337 on April 17, 1959.

In their damage suit filed in Law and Equity Court, they named as driver of the other car Miss Beatrice W. Reeves of Route 2, Box 787, Suffolk, Va.

* * *

ALSO NAMED as defendants were Hubert Griffin, in service at Fort Knox, Ky., the owner of the car; and the Richmond branch of General Motors Corp.

The suit made the following allegations:

That Griffin had bought the car a month before the accident from a motor sales company in Brooklyn, N.Y., which had got it from a dealer for General Motors.

That at the time of its purchase, the car was defective in that the throttle linkage and valves which control the flow of fuel to the carburetor were out of line, so that the valves would stick in an open position, and would not snap shut when released.

* * *

MRS. BENN maintained that she was seriously and permanently injured when the Griffin car collided with hers.

The settlement payment was shared by General Motors and the owner of the car.

\$500,000 Suit For Loss Of Son's Eye

Atlanta Daily World
Atlanta, Ga.
CHICAGO — (AP) — The Mother of a three-year-old boy, who lost his eye in an accident last summer, has filed a \$500,000 suit in Superior court.

Sup. 11-10-60
She is Mrs. Ida Mae Davis who filed the suit in behalf of her son Larry.

P112
Defendants include the Cosmopolitan National Bank and Trust Co., listed as trustee of the property where the youngster was said to have been injured last July 12.

Mrs. Davis and her family were living at the building at the time of the accident.

Mother of 5 awarded \$59,000 in mate's death

BALTIMORE

A young widowed mother of five children was awarded a \$59,000 judgment in Superior Court Tuesday by Judge Reuben Oppenheimer, in a suit involving the alleged auto accident death of her husband.

The award went to Mrs. Nancy Crosby, 28, 1518 N. Collington Ave., whose children range in ages from two to ten years.

The judgment was awarded against John Henry Murray, 2500 block Robb St.

The suit alleged that Mrs. Crosby's husband, Louis Crosby, was a passenger in Mr. Murray's auto on March 27, 1959, and died as a result of injuries received when the car was in collision with another auto.

OTHER DAMAGES awarded as a result of the accident were \$2,000 to Chester A. Davis, 2524 Garrett Ave., operator of one of the collision autos; \$750 each to Mrs. Marie Jackson and William Young, his passengers. Also, \$1,500 to Nolan Clark, 2105 Bryant Ave., operator of another auto involved, and \$3,000 to Ezzel Jones, and \$2,500 to Bert Jones, 1740 N. Chester St.

Golf Course Desegregation Gets Hearing In Court Today

The News-Courier, Charleston, S. C. June 28/60

P. 1 B

Federal Judge Ashton H. Williams has scheduled a hearing today on a civil suit motion seeking desegregation of the Charleston Municipal Golf Course.

The complaint was brought July 6, 1959, by John H. Cummings, John E. Chisolm, Robert Johnson and Benjamin Wright, all residents of Charleston.

The action stemmed from an incident in November, 1958, when several Negroes were denied permission to use the city-owned golf course.

In its answer to the action, the defendants—the City of Charleston—alleged that a three-judge court should not have jurisdiction over the case and that integration of the course would result in closing it, which would be to the detriment of both races.

The defendants also contended that the plaintiffs “did not seek the facilities of the Charleston Golf Course in good faith but only as a concerted effort and as a part of a plan to harass and embarrass the defendants. . .”

The original suit was filed by the NAACP in 1959. On June 8 of this year, a request for an immediate end to desegregation of the links was filed in U. S. District Court here pending outcome of the suit brought by the NAACP.

J. Arthur Brown, president of the Charleston branch of the NAACP said, “We hope it will mean that both races play or that no race plays.”

DAVID LAWRENCE

Douglas Disputes Court Ruling

Washington Post
 Rap at Personal Predilections in Case
 Held Significant to '54 School Decision

should be changed after such
 a long lapse of time only by
 a constitutional amendment

There is a kind of quiz that appears in some newspapers in which on one page it asked: "Who said this?" Then the answer is given on another page.

Well, who is the author of the following:

"Yet important as these civil rights are, it will not do to sacrifice other civil rights in order to protect them. We live and work under a Constitution. The temptations of many men of good-will is to cut corners, take short cuts, and reach the desired end, regardless of the means. Worthy as I think the ends are which the Civil Rights Commission advances in these cases, I think the particular means used are unconstitutional."

Was the foregoing comment expressed by some critic who feels that the desegregation decision of the Supreme Court of the United States in 1954 ignored the rights of the States to control their school systems? Was it written by someone who, like this correspondent, questioned the legality of the "sit-in" demonstrations at the lunch counters in the South only to hear the Rev. Martin Luther King say on television that, while it may be a violation of local law to trespass on premises in which there is a lunchroom and stay there demanding service, the end morally justifies the means?

The answer is that the paragraph quoted above comes from the pen of Justice William O. Douglas of the Supreme Court of the United States this week in a dissenting opinion in which he and Justice Hugo Black announced their differences with the seven other justices of the court.

The issue concerned the refusal of registrars in the South, accused of voting-law violations, to testify before the Civil Rights Commission when they were

denied copies of the charges against them and were not permitted to confront or cross-examine those making the charges. The commission was given by Congress certain powers of investigation, including the right to subpoena witnesses, and the commission's procedure had been to deny to such witnesses the right to confront and cross-examine other witnesses who, by their testimony, might seek to damage them. The Supreme Court's majority held this week that the commission's hearing was just an "investigation" to get the facts and not to prosecute anybody, so the "due process" safeguards are not necessary, particularly as the testimony could be taken in secret.

It will be recalled that last year the Supreme Court had a difficult time with the same issue when security clearances in defense plants were involved. The court said then that, unless specifically authorized by the President or Congress, a Government department cannot deprive a man of his job "a proceeding in which he was not afforded the safeguards of confrontation and cross-examination."

But now the majority of the court has apparently reversed itself by insisting that hearings of the Civil Rights Commission are simply "investigations" by an executive agency and do not have anything to do with a judicial proceeding and that there are adequate safeguards, anyway. Justice Douglas, however, doesn't accept this rationalization. He says:

"The procedure seems to me patently unconstitutional, whether the hearing is public or secret. Under the commission's rules, the accused is deprived of the right to notice of the charges against him and the opportunity of cross-examination . . . And even if the commission were inclined in a particular case to protect the accused

from the opprobrium likely to flow from the testimony of individual witnesses

against him by holding secret sessions, this would be little comfort after the commission's findings, based on such untested evidence, were publicized across the Nation."

Justice Douglas insists that the Civil Rights Commission is not an arm of Congress but is an arm of the Executive and that the only way the Chief Executive may move against a person accused of crime and deny him the right of cross-examination is by a grand jury proceeding. He adds that the instant case in "a device to expose people as suspects or criminals," and he says of the Supreme Court justices themselves that "personal preference, not reason, seems to be controlling." Here is the most severe criticism that Justice Douglas wrote about the inconsistencies of his fellow justices on the Supreme Court as well as judges generally:

"Yet one who tries to rationalize the cases on cold logic or reason fails. The answer turns on the personal predilections of the judge; and the louder the denial the more evident it is that emotion rather than reason dictates the answer. This is a serious price to pay for adopting a free-wheeling concept of due process, rather than confining it to the procedures and devices enumerated in the Constitution, itself . . .

"We look to the Constitution — not to the personal predilections of the judges — to see what is permissible. Since summoning an accused by the Government to explain or justify his conduct, that is charged as a crime, may be done only in one way (by grand jury proceedings), I would require a constitutional amendment before it can be done in a different way."

This echoes the demand of many citizens who felt in 1954 that reversal of a long-time precedent by the Supreme Court was wrong and that the "law of the land"

State Robbery Conviction Struck Down

Court Warns States Against Involuntary Confession Use

WASHINGTON, Jan. 11 (AP) — The Supreme Court told the states today it will not permit criminal convictions to stand if they result from confessions that the court concludes are involuntary.

By a 9-0 vote, the court struck down the 1948 robbery conviction in Colbert County, Ala., of Jesse Blackburn. Blackburn, a Negro, 24 years old at the time, received a 20-year sentence for the robbery of the operator of a truck-mounted store on a lonely road.

Chief Justice Earl Warren, who spoke for the court, agreed with Blackburn's contention that a confession introduced in evidence against him had not been made voluntarily.

Blackburn, who had a long history of mental illness, said he had no recollection of making the confession. Warren said Blackburn was questioned for eight or nine hours, and that most of the interrogation took place in closely confined quarters with as many as three officers being present at one time.

"We are unable to escape the conclusion that Blackburn's confession can be characterized only as involuntary," Warren wrote. "Consequently, the conviction must be set aside."

Should Alabama bring Blackburn to trial again, it could not use his alleged confession against him.

In other activities today, the court:

1. Again denied a hearing to Caryl Chessman, Los Angeles sex bandit scheduled to die Feb. 19 in the gas chamber of San Quentin Prison.

The court, last Dec. 14, rejected a lengthy appeal filed on behalf of Chessman. Its action today refused to reconsider this.

Chessman has staved off execution for 11½ years through a series of appeals in state and Federal courts.

A. L. Wirin, attorney for Chessman, said the next move will be to press for a ruling in Federal Court at San Francisco, seeking a release from custody on grounds Chessman is being illegally detained "because of the inadequacy of the record of the trial."

2. Refused a hearing to Albert Fuller, onetime deputy sheriff at Phenix City, Ala., who is under a life imprisonment sentence for the 1954 slaying of A. L. Patterson, father of Alabama's present governor, John Patterson.

3. Rejected an appeal by John Kasper from his conviction in Davidson County, Tenn., on a charge of inciting a riot.

Liberty End Cafe Case—

Shufflin' Old Negro's Arrest Holds Supreme Court's Interest

BY CHARLOTTE G. MOULTON

WASHINGTON, Dec. 13 (UPI)—On a cold night a year ago an old Negro named Sam Thompson entered a Louisville, Ky., tavern about 8:20 p.m.

Thompson ate a dish of macaroni and drank a beer. A juke box was playing. He shuffled to the music. The next bus to his home left at 7:30.

A policeman entered the tavern, asked a few questions and arrested Thompson for loitering. The arrest followed a long series of others for a variety of misdemeanors Thompson had been accused of.

This time Thompson argued with the policeman, who then added a disorderly conduct charge. He was fined \$10 on each count in the city police court. The prosecutor told the judge Thompson was doing a "shuffle dance."

Under Kentucky law there is no way to appeal such small fines to higher state courts. Thompson's only recourse was the Supreme Court of the United States.

Yesterday the nine justices, who only Monday refused to hear pleas from such well-known figures as author-convict Caryl Chessman, former Federal Communications Commissioner Richard A. Mack and segregationist John Kasper, showed a lively interest in Thompson's predicament. It will hand down a ruling in his case later.

Thompson's lawyer, Louis Lusky of Louisville, said it is unconstitutional for Kentucky not to provide an appeal from "arbitrary arrest."

Then, Herman E. Frick, assistant director of law for Louisville, arose.

"Is it a violation of a Louisville ordinance for an old colored man to go into a beer hall and be guilty of loitering and disorderly conduct simply because he taps his foot to music as he waits for a bus on a cold winter night?" inquired Justice

Charles E. Whittaker.

"What is a shuffle dance?" inquired Justice William J. Brennan Jr.

"I presume it is some sort of dancing that uses the system of shuffling," Frick replied.

"Is that illegal in Louisville?" asked Justice Felix Frankfurter.

"No, sir, it is not illegal to shuffle in Louisville," Frick answered.

He explained that a city ordinance forbids tavern keepers to allow dancing.

Then there was the matter of whether Thompson really bought anything.

"Is it constitutionally permissible for Louisville to make it an offense to be in a bar and shuffle and not buy a drink?" Frankfurter wanted to know.

"In New York and Boston," he added, "thousands of people enter saloons on errands of necessity."

"Quite true," Frick replied.

"And I don't mean they go in to buy a drink," Frankfurter added.

The case ran half an hour overtime.

Lusky said in answer to questions that his client has been arrested 12 times since last Jan. 24 in reprisal for his fight against the tavern arrest.

"He is in jail now," the lawyer said.

The name of the tavern was Liberty End Cafe.

Rulings Back U. S. Bid to Negro Voters

By ROBERT E. CLARK

Star Staff Writer

With fresh backing from the Supreme Court the Justice Department has renewed its invitation to Southern Negroes to

"exercise their constitutionally protected right to register and vote."

As expected, the Supreme Court yesterday threw out the ruling of Georgia's Federal Judge T. Hoyt Davis that the Civil Rights Act of 1957 is unconstitutional. It also ordered 1,377 Negroes, "purged" in Louisiana's Washington Parish, restored to that State's voting rolls forthwith.

Both actions were unanimous. In the Georgia case the high court upheld the constitutionality of the major provisions of the civil rights law, though leaving a theoretical loophole for further Southern appeals.

Cites Firm Foundation

Attorney General Rogers, who had personally argued the Georgia case before the Supreme Court, said in a statement that the court decision makes plain the law is a "firm foundation" for further congressional action to safeguard Negro voting rights.

The administration's voting referee proposal, the storm center of the Senate civil rights filibuster, would add sharper teeth to the civil rights act.

The Rogers' statement added:

"Certainly, responsible State officials will comply with the mandate of the Constitution, the Congress and the courts, and permit qualified Negroes to exercise their right to vote."

"On the other hand, if any infringement of the right occurs, it should be reported to the Department of Justice for appropriate actions."

Another Case Awaited

The Civil Rights Commission was also cheered by the Supreme Court victory but planned no charge in its previous decision to postpone further Southern hearings on Negro voting rights pending the court's decision in another key case.

That is the ruling of a three-judge Federal court in

Louisiana that witnesses at the hearings must be given the right to cross-examine their accusers.

The issue was raised by voting registrars, who alleged their constitutional rights were violated by the commission's practice of taking testimony from anonymous Negro voters.

Another case still to be decided by the Supreme Court is the ruling of an Alabama judge that the civil rights law only authorizes the Justice Department to bring suits against individuals, not States. The resignation of voting registrars after charges have been filed against them has frustrated the Government's effort to enforce Negro voting rights through the powers of the 1957 law.

The Louisiana case acted upon yesterday involved a different issue, the removal from voting rolls of Negroes who had previously been registered. The alleged voters' purge was launched early last year by the white Citizens Council of Washington Parish.

By last June 30 the number of Negro registrants had been reduced from 1,517 to 236, while white registration had increased from 11,444 to 12,228.

Arguments before the Supreme Court last week brought out that voters could be removed from the rolls for failing to dot an "i" or cross a "t" on their registration forms. One Negro school teacher was dropped for miscalculating her age by one day.

Federal Judge J. Skelly Wright of New Orleans or January 11 ordered the names of the Negroes restored to the polls, but the order was stayed by the Fifth Circuit Court of Appeals. The Supreme Court vacated the stay and affirmed Judge Wright's ruling.

Appeal Possible

The high court action involved only the voting registrar of the parish. The members of the Citizens Council who had also been enjoined by Judge Wright may still carry the appeal to the Fifth Circuit.

The principle case involving the registrar had been ex-

pedited by the Supreme Court because of a Louisiana election set for April 19.

To avoid any further purging of Negro voters, Judge Wright ordered the registrar to keep track of the number of challenges to both white and Negro voters in the future. If the figure exceeds five per cent in any three-month period, the registrar must report the reasons to the court.

Court Upsets Evidence Rule

The Times
Must Meet Tests of Federal Guarantees

New Orleans
By KARL R. BAUMAN

WASHINGTON (AP) — The Supreme Court Monday barred use in federal criminal trials of evidence illegally obtained by state and local police officers.

By a vote of 5-4, the court swept aside the old "silver platter" doctrine. Under it, federal prosecutors could use evidence unlawfully obtained by state and local officers. Under the new rule, state-obtained evidence must meet the test of the Fourth Amendment's guarantee against unreasonable search and seizure.

Speaking for the majority, Justice Potter Stewart summed it up: "Evidence obtained by state police officers during a search which, if conducted by federal officers, would have violated the defendant's immunity from unreasonable searches and seizures, under the fourth amendment is inadmissible over the defendant's timely objection in a federal criminal trial."

'OVERTURNS RULE'

Justice Felix Frankfurter, in a dissenting opinion concurred in by Justices Tom C. Clark, John M. Harlan and Charles E. Whittaker, sharply criticized the new doctrine. Frankfurter said it overturned "a rule of evidence always the law and formally announced in 1914 by a unanimous court."

In its final session of its 1959-60 term, the court handed down formal opinions in 16 cases and disposed of scores of others in brief orders. The court's 1960-61 term will begin Oct. 3.

Among other major actions the court:

1. Divided 4-4 in upholding a Dayton, Ohio, ordinance requiring

householders to admit building inspectors without search warrants. The tie vote resulted from the fact that Justice Stewart, an Ohioan, took no part in the case.

DISSENT FILED

Justice William J. Brennan wrote a dissenting memorandum in which Chief Justice Earl Warren and Justices Hugo L. Black and, William O. Douglas joined. Brennan's chief argument was that inspectors should be required to obtain search warrants.

2. Dismissed by a 5-4 vote the appeals of five Negroes convicted of trespassing on a city-owned, privately operated golf course in Greensboro, N.C.

Stewart speaking for the majority said no federal question was involved in the case because of the failure of Negroes to raise such a question in their appeal before the North Carolina Supreme Court. Warren, joined by Black, Douglas and Brennan, disagreed. Warren said the Negroes should be allowed to press their claim of unconstitutional racial discrimination in the North Carolina Supreme Court.

APPEALS TO HIGH COURT

Rogers Says Judge Erred In Georgia Rights Case

WASHINGTON (AP)—Atty Gen. William P. Rogers told the Supreme Court today that a Georgia federal judge "fell into gross and manifest error" by ruling parts of the 1957 Civil Rights Act are unconstitutional.

The case is the first to be filed under the act to protect voting rights of Negroes. As a measure of the importance he places on it, Rogers arranged to argue the appeal personally in his Department to narrow it, to first formal argument before the high tribunal as attorney general.

In an advance brief, Rogers said Judge T. Hoyt Davis of the Macon, Ga., U.S. District Court, went beyond the facts of the case in dismissing a government complaint.

DISCRIMINATION CHARGED

The complaint charged that voting registrars of Terrell County, Ga., discriminated against qualified Negro voters who wanted to get on the voting rolls.

Davis ruled that parts of the act were unconstitutional because they gave the attorney general the right to file injunction suits against individual citizens as well as state officials. He said Congress exceeded its constitutional powers.

Appealing directly to the Supreme Court, Rogers contended the Georgia suit sought to enjoin state officials—the voting registrars of Terrell County—and not private individuals.

BLOCH HITS ROGERS PLEA

In his brief, Rogers said "It is a primary obligation of the courts to determine the constitutionality of a statute within the actual context of the facts involved. It is not the function of the courts to construct remote, hypothetical situations to which the statute conceivably might be applied—and if so applied might be unconstitutional."

Charles J. Bloch of Macon, counsel for the registrars, argued in support of Judge Davis' action.

"If the statute is so broad in scope as to be unconstitutional," he said in his preliminary attempt of the Justice

Overrules Georgia—

Court ruling backs voting rights push

WASHINGTON, Feb. 29—(AP)—In a unanimous decision, the Supreme Court today upheld key sections of the 1957 Civil Rights Act, and thus backed a federal drive to enforce Negro voting rights.

"There is the highest public interest in the due observance of all the constitutional guarantees," said the court's opinion, delivered by Justice Brennan.

HE SAID "we think it perfectly competent for Congress to authorize the United States to be the guardian of that public interest . . ."

The high court action removes a barrier to federal injunction suits to force observance of Negro voting rights in the South.

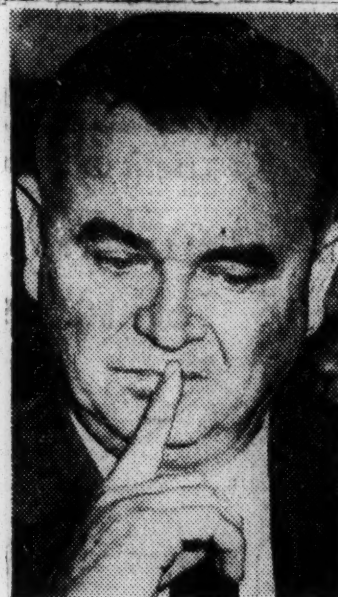
The tribunal unanimously threw out a ruling by Federal Judge T. Hoyt Davis in Macon, Ga., that the 1957 act gave unconstitutional powers to the attorney general.

Davis had held that sections of the 1957 act were invalid because they gave the attorney general power to seek injunctions against private citizens as well as state officials.

BUT THE SUPREME COURT held that in the case in question discrimination against Negroes by state officials was charged; that Judge Davis should have up-

In the first case filed by the Justice Department under the 1957 act, the government complained to Davis that voting registrars in Terrell County, Georgia, had discriminated against qualified Negro voters who wished to get on voting rolls.

Negroes argued the government's request for an injunction



JUSTICE BRENNAN

... Gives ruling

was against state officials—the voting registrars—and not private individuals.

Charles J. Bloch, Macon attorney, argued for affirmance of the Davis decision. Bloch said ample judicial remedy was provided under Georgia law if the complaints against the registrars were valid.

"Until Georgia courts have had an opportunity to pass on the registrars' action, there has not been any denial of rights by Georgia," Bloch insisted.

ROGERS TOLD THE Supreme Court that among Negroes kept from registering in Terrell County on literacy grounds were four public school teachers with college degrees.

The attorney general insisted Judge Davis had gone far afield in ruling on validity of action against individuals, since the government was using voting registrars who were state officials acting under authority of state law.

Brennan's opinion said that in this particular case the conduct charged—that is, discrimination by state officials within the

course of their official duties, against the voting rights of U. S. citizens on grounds of race or color—is certainly state action and "the clearest form of it, subject to the ban of the 15th Amendment. . ."

Legislation designed to deal with such discrimination is appropriate legislation under the 15th Amendment, Brennan asserted.

"It makes no difference that the discrimination in question, if state action, is also violative of state law," the justice said.

The opinion recalled that an argument made by the state was that its ultimate voice had not been heard. The opinion on this point stated:

"IT IS, HOWEVER, established as a fundamental proposition that every state official, high and low, is bound by the 14th and 15th Amendments. We think this court has already made it clear that it follows from this that Congress has the power to provide for the correction of the constitutional violations of every such official without regard to the presence of other authority in the state that might possibly revise their actions."

Bus, Cafe Mixing Is Ordered

The Times -
Ruling Avoids Question
of Constitution Rights

By Karl R. Bauman
WASHINGTON (AP) — The Supreme Court Monday outlawed discrimination against Negro passengers in restaurants that regularly serve interstate bus travelers.

By *Karl R. Bauman*
WASHINGTON (AP) — The Supreme Court Monday outlawed discrimination against Negro passengers in restaurants that regularly serve interstate bus travelers. Avoiding constitutional questions that might have had an important bearing on other issues involving Negro rights, the court based its decision on the Interstate Commerce Act.

12-6-60
The ruling struck down the conviction of Bruce Boynton, a Negro traveling from Washington, D. C., to Selma, Ala. who refused to leave the restaurant for whites in the Trailways bus terminal in Richmond, Va.

Boynton was fined \$10 under a Virginia law which makes it a misdemeanor to refuse to leave premises on demand of persons in charge.

1.15
Justice Hugo L. Black, author of the decision, went no further than necessary to decide the case. He noted that constitutional questions had been raised in Boynton's appeal, including the due process and equal protection clauses of the 14th Amendment.

LIMITED TO ICC ACT

"We think there are persuasive reasons, however, why this case should be decided, if it can, on the Interstate Commerce Act question raised in the Virginia courts," Black wrote.

"Discrimination is the core of the two broad constitutional questions presented us by petitioner, just as it is the core of the Interstate Commerce Act question presented to the Virginia Courts. Under these circumstances, we think it appropriate not to reach the constitutional questions but to proceed at once to the statutory issue."

The court thereby avoided any hint as to what attitude it might take on lunch counter sit-down demonstrations in the South, as well as on other similar questions. Black said the Interstate Commerce

Act uses language of the broadest type to bar discriminations of all kinds. He recalled the court has held in the past that the act forbids railroad dining cars to discriminate in service on account of color.

'PART OF BUS SERVICE'

He agreed with the contention of Virginia the evidence did not show the bus company owned or controlled the Richmond restaurant. He said, however, that the Interstate Commerce Act did not exempt motor carriers from their duty not to discriminate.

Black said the court was not holding that every time a bus stops at an independent roadside restaurant the Interstate Commerce Act requires restaurant service be supplied in harmony with the provisions of the act.

"We decide only this case, on its facts, where circumstances show that the terminal and restaurant operate as an integral part of the bus carrier's transportation service for interstate passengers," Black said. "Under these circumstances, an interstate passenger need not inquire into documents of title or contractual arrangements in order to determine whether he has a right to be served without discrimination."

Justice Charles Whittaker wrote a dissenting opinion in which Justice Tom C. Clark concurred.

High Court Adds To Negro Rights

Commercial Appeal
Bus Terminal Restaurants Affected When Part Of Interstate Service

Memphis Press-Scimitar
By United Press International

WASHINGTON, Dec. 5.—The Supreme Court ruled Monday that a Negro is entitled to service in a bus station restaurant if it is an "integral part" of an interstate line's service to its customers. On behalf of the majority in the 7-2 decision, Justice Hugo L. Black held that racial discrimination at such terminal restau-

rants violates the interstate commerce law. The two dissenters to Monday's ruling were Justice Charles E. Whittaker and Tom C. Clark.

Has Abandoned Policy

A spokesman for the bus company involved in the case said that within the last 60 days the independent form which operates restaurant facilities in 22 terminals—mostly in the South—has abandoned "white only" policies.

L. L. Browning, traffic manager for Trailways, said this decision was taken by Bus Terminal Restaurants, Inc., of Raleigh, N. C., which controls and supervises eating facilities in Trailway bus stations under lease.

The high court rather carefully limited the scope of its ruling. Justice Black made it clear the ruling was not intended to apply the non-discrimination provision of the Interstate Commerce Act "every time a bus stops at a wholly independent roadside restaurant."

But the opinion said when a terminal and restaurant operate as "an integral part of the bus carriers' transportation service for interstate passengers," no one must be subjected to "any unjust or unreasonable prejudice or disadvantage in any respect whatsoever."

Student Was Arrested

The appeal was brought to the high court by a Howard University student, Bruce Boynton, who tried to get service in a restaurant at Richmond, Va., while traveling from Washington to Selma, Ala., during the 1958 Christmas holidays.

The assistant manager had Boynton arrested when he insisted on being served. The Negro student was convicted and fined on a misdemeanor charge in a Richmond police court.

This conviction was set aside by Monday's ruling.

The dissent by Justices Whittaker and Clark was based on the view that there was no evidence in the case that the restaurant at Richmond was controlled or affiliated with the bus company in any way.

Bus Restaurants Here Uncertain Of Affect

Officials of restaurants at both Greyhound and Continental Trailways bus stations said yesterday they didn't know just what the service policy would be in view of the Supreme Court's most recent integration ruling.

Mrs. Delmar Ilhe, manager of the Greyhound Post House Restaurant, said she would have to talk to A. G. Goodwin, Southern division manager of the company. Mr. Goodwin is in Miami and is not expected to return until the end of the week.

Officials of Continental's restaurant said they would have to confer with their regional headquarters in Dallas.

The Post House has been the scene of several sit-in demonstrations.

Golf Course Trespass Appeal Is Dismissed

WASHINGTON (AP) — An appeal of five Negroes convicted of trespassing on a golf course leased by the city of Greensboro, N.C. to a private operator was dismissed Monday by the U. S. Supreme Court. The court was split 5-4 on the matter.

The court held that the case presented no federal question, but Chief Justice Warren wrote a dissenting opinion in which he said he did not agree that the case did not now present a federal question. 6-28-60

Justices Black, Douglas and Brennan joined Warren in the dissenting opinion. P-3

Justice Stewart, who announced the dismissal, said it resulted from the fact that attorneys for the Negroes, in their appeal to the North Carolina Supreme Court, failed to present the fact that a federal district court had declared that the leasing of the golf course was an attempt by the city to evade its duty not to discriminate against any citizens.

Before the North Carolina Supreme Court ruling, U.S. District Judge Johnson J. Hayes of North Wilkesboro, N.C., had held that the Gillespie Park Golf Course was used "to evade the city's duty not to discriminate against any of its citizens."

Justice Stewart said counsel for the Negroes ascribed to "some quirk of inadvertence" their failure to present the Hayes ruling in the record before the State Supreme Court. The state court said it was not required to take judicial notice of Hayes' action because the federal case was not offered in evidence in the state case.

Warren said he favored sending the appeal back to the North Carolina Supreme Court and permitting the Negroes "to correct their case." He said he was sure the state would not object to such a step, "for North Carolina has no interest in depriving its citizens of their liberty on assumptions that do not accord with facts."

Justice Warren, in his dissenting opinion, continued, "It seems clear, therefore, that under North Carolina law, appellants may yet have their federal question reviewed."

However, in Raleigh, Assistant Atty. Gen. Ralph Moody said he was certain that North Carolina would object to Justice Warren's suggestion that the case be re-turned for revision of the record. ination was involved; that the state had never denied the right of Negroes to play on the course provided they became eligible as members on the same basis as white persons.

Moody said also that he doubted that changes could be made under North Carolina law after both sides have agreed as to what constitutes the record of the case on appeal.

"We can't waive all the rules because any particular minority group happens to be interested," said Moody, who argued the case for the state before the Supreme Court. "I don't see why I should agree to it."

Stewart emphasized that there was no issue in the case as to the constitutional right of Negroes to use a public golf course "free of racial discrimination."

The Negroes, and one other who has since died, were arrested in February of 1958 for using the Gillespie Park course which the city had leased to the Gillespie Park Golf Club, Inc. Each was sentenced to 15 days in jail.

The Negroes are Dr. George Simkins Jr., Greensboro dentist; Elijah H. Herring Sr., Samuel Murray, Joseph Studivant and Leon Wolfe.

Phillip Cooke, who was one of the defendants, died last year.

J. Kenneth Lee of Greensboro, an attorney for the Negroes, declined comment until he has read the Supreme Court opinion.

Justice Stewart, in emphasizing that there was no issue as to the constitutional right of Negroes to use a public course, said, "From first to last, the courts of North Carolina fully recognized that under the Constitution these appellants could not be convicted if they were excluded from the golf course because of their race. . .

"Upon the evidence in this case the jury's verdict established that no such racial discrimination had in fact occurred."

Stewart said Monday's decision "is required by principles of judicial administration long settled in this court, principles applicable alike to all litigants, irrespective of their race, color, politics or religion."

The five contended they were excluded solely on the basis of race. The state said no discrim-

12d 1960

COURT TO REVIEW CAFE EXCLUSION

The New York Times
Significant Case Concerns

Privately Run Facility
in a State Building

Special to the New York Times
WASHINGTON, Oct. 10—The Supreme Court agreed today to decide whether a privately operated restaurant in a public building was Constitutionally required to serve Negroes without discrimination.

This was one of a score of cases to which the court granted review at its first business session of the term. It disposed of more than 250 cases on the docket by denying review. In some of the more important actions the justices:

1. Agreed to decide whether the commander of a military base had the authority to exclude an employee of a privately run cafeteria from the base without telling her the reasons or giving her any opportunity to answer charges.

2. Granted review of the contempt conviction of Bernhard Deutch, who while a graduate student in physics at the University of Pennsylvania refused to answer questions of the House Committee on Un-American Activities.

3. Took on five contempt cases resulting from refusals to answer the Ohio Commission on Un-American Activities.

4. Refused to review a decision that bequests to the New York City, New York County and New York State Bar Associations were tax-exempt.

5. Agreed to review a decision that it was no crime under the Taft-Hartley Law for five trucking concerns to make loans totaling \$200,000 to Dave Beck, former president of the Teamsters Union, despite a provision of the law barring employers from giving union leaders "any money or other things of value."

The restaurant case is significant in that it may help clarify the line between "state action," to which the Constitution's provisions against racial discrimination apply, and merely private action, which is not affected by the Constitution.

Involved in the case was the Eagle Restaurant, located in a

large garage in downtown Wilmington, Del. The garage is operated by a public authority, but the restaurant space is leased to a private concern.

A Delaware law authorizes a restaurant operator to refuse service to anyone whose presence "would be offensive to the major part of his customers and would injure his business."

William H. Burton, a Negro City Councilman of Wilmington, was refused service under that law. He appealed to the Supreme Court from a Delaware decision upholding the state statute as applied in his case.

The justices declined today to review a decision denying a plea by William Z. Foster, the Communist party leader, for permission to travel to Czechoslovakia or the Soviet Union for medical treatment.

The Supreme Court denied review only on assurance of the Government that it would promptly decide whether Mr. Foster would ever be able to stand trial on Smith Act charges.

The New York bar associations case concerned bequests received. The executors of the will deducted the sums in computing Federal estate taxes. The action was upheld in court on the ground that the associations were operated exclusively for charitable, scientific and educational purposes. In its appeal to the Supreme Court, the Justice Department contended that the associations studied and reported on legislation and made recommendations to all three branches of the state and Federal governments.

SUPREME COURT

Supreme Court Orders Bible-Study Case Review

The Atlanta Constitution
Atlanta, Pa. 12 d
By CHARLOTTE MOULTON

WASHINGTON (UPI)—The Supreme Court Monday sent back to the lower courts a dispute over Bible reading in the public schools.

The controversy began when a Roslyn, Pa., couple objected to a Pennsylvania state law that required teachers to read 10 verses of the Bible each morning to their students. They said some portions of the Bible conflicted with their beliefs.

Three Philadelphia district judges ruled the state law was unconstitutional, whereupon the legislature changed it to remove the compulsory feature.

The new law permits schools to excuse students from the reading if their parents request it. But the three-judge court said the earlier order striking down the original law had to stand because it no longer had jurisdiction.

The Supreme Court action Monday vacated the district court ruling and sent the case back to the lower court for another look. Pennsylvania and Abingdon Township school officials said the entire legal picture is clouded now because of the earlier ruling.

The Supreme Court decided in another case to take a look at an Ohio obscenity law which a majority of the state's high court thought was unconstitutional but which remained on the books.

The law, barring possession of obscenity for any reason, remained in force because the Ohio Constitution requires that at least six of the seven State Supreme Court justices must agree before a statute can be thrown out. In this case, four of the seven justices held the law invalid.

The defendant was a Cleveland woman who said obscene books and pictures found in her home were the property of a former roomer and were only being stored until he removed them. She also contended the material was found by police as a result of an illegal search.

In other actions, the high court:

High Court Postpones Ruling In School Bible Reading Case

The Montgomery Advertiser
Montgomery, Ala.
WASHINGTON (AP)—The Supreme Court Monday put off indefinitely a decision on constitutionality of Bible reading in public schools.

The court took these steps in a Pennsylvania case:

1. Vacated the judgment of a three-judge federal court in Philadelphia that compulsory reading of the Bible and recitation of the Lord's Prayer violates the U.S. Constitution.

2. Sent the case back to the lower court "for such further proceedings as may be appropriate" in the light of a revision in the Pennsylvania law.

The new law, unlike the old one, provides that pupils may be excused while the Bible is being read if their parents so request.

This means that the new law must be ruled upon by the lower court before the Supreme Court will take a look at its legality.

In other actions Monday, the court:

1. Agreed to review a decision of a three-judge federal court in New Orleans that the National Association for the Advancement of Colored People may not be compelled by Louisiana to disclose names of its members and contributors.

In agreeing to review the case, the court acted on an appeal by Louisiana Atty. Gen. Jack P. F. Gremillion.

The lower court held that to compel the NAACP to comply with a 1924 law requiring organizations to file membership lists would violate the Constitution's guarantees of free speech and assembly and due process of law.

In 1958, in a case involving the NAACP and Alabama, the court said the NAACP was protected by the Constitution from forced disclosure of its membership.

2. Voted to rule on constitutionality of an Ohio law making it a crime to "knowingly" have in one's possession an obscene book or picture.

Validity of the law was attacked by counsel for Mrs. Dollree Mapp of Cleveland. She received a sev-

en-year sentence after police found allegedly obscene books and pictures in her home.

High Court Tackles Religious Issues

By Mary Hornaday

Staff Correspondent of The Christian Science Monitor

Third of five articles on current issues concerning the separation of church and state. They are running daily.

New York

Religious issues are building up in the courts as well as in the political area in the United States.

The two major fields in which the United States Supreme Court has written interpretations of the establishment-of-religion clause of the Constitution have both concerned public schools. The McCollum (1948) and Zorach (1952) cases dealt with released time for religious classes and the Everson case (1947) with bus transportation to parochial schools.

Now a test of a state antirbirth control law, and of Sunday closing laws are scheduled to come before the Supreme Court at its new session. Also on the way to the highest court are a state order forbidding Bible reading in the public schools and a law requiring local school boards to furnish free textbooks at public expense to children in parochial schools.

School Bus Case

Though in the Everson case, the Supreme Court decided that transportation of parochial-school pupils at public expense does not violate the federal constitution, it has yet to determine the validity of such statutes under the somewhat differing constitutional provisions of various states. It may extend or modify this ruling in a Connecticut school bus case.

The Court has already agreed to review a series of test cases challenging Connecticut's 80-year-old birth control law. In the case, the Connecticut Supreme Court of Errors recently unanimously upheld the constitutionality of two 1879 statutes forbidding the prescribing or use of birth control drugs or devices. The plaintiffs, Dr. C. Lee Buxton, chairman of Yale Medical School's Obstetrics Department, two married couples, and a married woman, appealed to the United States Supreme Court, arguing that the state law has deprived them of rights guaranteed by the Fourteenth Amendment to the federal Constitution.

Efforts to change the Connecticut birth control law by the newly-initiated case in Miami,

legislative process have failed many times.

Sunday Closing

One of the most heated questions in the field of church-state separation—Sunday closing laws—also has been accepted by the Supreme Court for argument at this session. On the docket are three cases involving a kosher supermarket in Massachusetts, and a discount firm, "Two Guys from Harrison," operating in challenge to closing laws in Maryland and Pennsylvania.

The Massachusetts case, which has attracted national attention, is that of Gallagher v. Crown Kosher Supermarket, a case in which Jewish and Seventh Day Adventist forces lined up against the Massachusetts Sunday closing law, defended predominantly by the Protestant Lord's Day League of New England and the Archdiocesan Council of Catholic Men.

Religious Basis?

The Federal District Court voted 2 to 1 to declare the Massachusetts law unconstitutional on the ground that it denied equal rights to "those Christian sects and to Orthodox and Conservative Jews who observe Saturday as the Sabbath and to the prejudice of the latter groups."

In Pennsylvania, Judge Raymond P. Alexander found the purpose of that state's Sunday law to be "basically religious" and therefore void because it prefers certain Christian religions over all others and contributes to their establishment.

But there is a possibility that the Supreme Court might sustain the Sunday closing laws on the welfare principle, arguing as some states have, that they can properly prescribe one day of rest each week for every citizen and that as a matter of convenience they would choose the day favored by a majority—Sunday.

The issue of Bible reading in the public schools may reach the Supreme Court through the 1959 Schempp decision of a district court in Philadelphia outlawing such reading or through and classrooms for parochial schools as long as these are used

Fla. At last count, about three-only for secular purposes. fourths of the states either "There is only one question—require or permit daily reading of the Bible. Does the furnishing of free textbooks to parochial school pupils help or foster the teaching of religion? The answer is obvious. Anything that assists a religious sect to conduct a separate school where all instruction is permeated with religious overtones is an aid to religion."

Philadelphia Case

But in Philadelphia, Mr. and Mrs. Edward L. Schempp, active in the Unitarian Church, said they preferred to have the family rather than the state take responsibility in religious instruction of their children. The district court which backed them said, "The daily reading of the Bible, buttressed with the authority of the state, more importantly to children, backed with the authority of the teacher, can hardly do less than inculcate or promote the inculcation of various religious doctrines in childish minds."

In the Florida case, five parents—three Jewish, one Unitarian and one agnostic—have asked the court for an injunction to force the Dade County Board of Public Instruction to discontinue reading of the Bible, recitation of the Lord's Prayer, observance of religious holidays, and other religious practices in its schools.

Another redefinition of the First Amendment may be reached if and when the Supreme Court studies the constitutionality of an Oregon law requiring local school boards to furnish free textbooks at public expense to all children attending schools which meet State Board of Education standards. This law was recently upheld by an Oregon circuit court in a suit brought by a taxpayer who challenged its validity.

Reexamination Invited

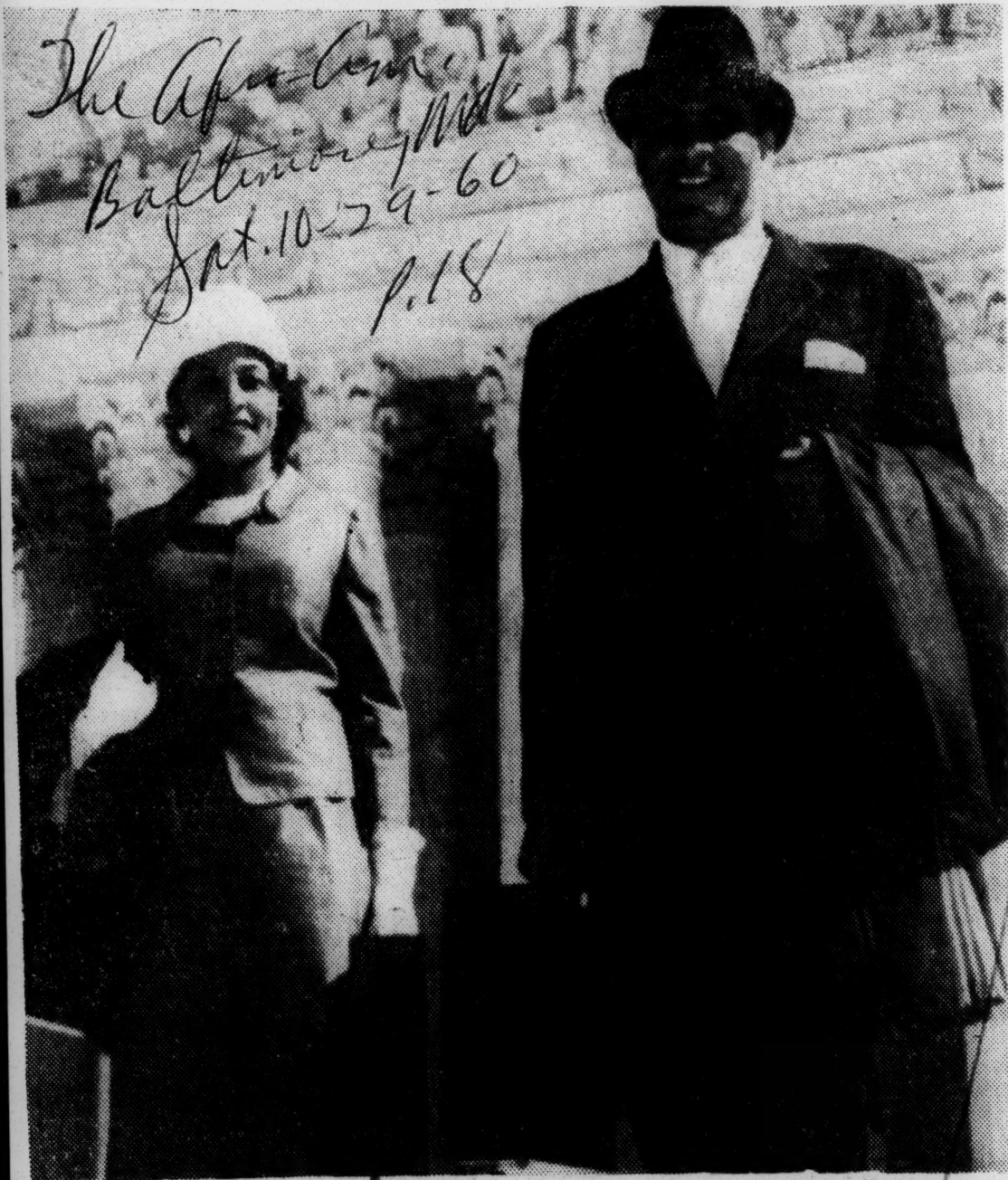
But in his decision, based on the 1947 Supreme Court decision in the Everson school bus case and the 1930 ruling in Cochran vs. Louisiana School Board upholding Louisiana's Free Textbook Law, Judge Ralph N. Holman issued a strong invitation to the Supreme Court to reexamine its church-state interpretation. "While I feel obligated to uphold the law as interpreted by the United States Supreme Court, I am not persuaded that its interpretation of the constitutional prohibition is the correct one," he declared, "and therefore make as vigorous a dissent as I am capable to the rulings in both the Everson and Cochran cases and to the ruling in this case. If these rulings are correct," he said, "there is nothing in principle or law to prevent legislatures from spending public funds for teachers, supplies, scientific laboratory equipment, athletic equipment, and classrooms for parochial schools as long as these are used

Where and how will the Supreme Court draw the line of separation between church and state in the coming decade?

12th 1960

U.S. SUPREME COURT

ATTORNEYS RUTH R. HARVEY AND HARRY
WOOD



FAMILY AFFAIR—Attorneys Ruth R. Harvey and Harry Wood, a husband and wife legal team of Danville, Virginia, leave the U.S. Supreme Court in Washington after having been admitted to practice before the

high court. Mr. and Mrs. Wood were sponsored by Attorney Marjorie McKenzie and Belford V. Lawson, also a husband and wife legal team, of Washington, D.C.

Tuskegee Voters, Little Rock Teachers Cases Before Court

NEW YORK — Briefs for two significant civil rights cases were filed before the United States Supreme Court on August 23, by NAACP lawyers with arguments scheduled to be heard this fall. The announcement was made by the Association's General Counsel Robert L. Carter.

One case involves an Arkansas law requiring public school teachers to list all their organizational affiliations. A lower court had upheld the validity of the statute.

In response to an appeal filed on Nov. 23, 1959, by NAACP attorneys on behalf of B. T. Shelton, a school teacher, and the Arkansas Teachers Association, the high court agreed last January 25 to review the case.

Mr. Shelton and the Teachers Association contend that the Arkansas law was designed to cripple the NAACP and is in violation of the equal protection and due process clauses of the 14th Amendment to the Constitution.

Despite his 25 years' service, Mr. Shelton, a longtime NAACP member, was dismissed May 5, 1959, because he refused to sign the affidavit requiring him to list all organizations to which he belonged or contributed for the last five years.

In the other case, the Supreme Court will hear arguments as to the authority of the federal judiciary to invalidate an Alabama law which in effect disfranchised practically all the Negro voters in Tuskegee. An Arkansas district court opinion stated that the federal judiciary had no such authority.

NINE MEN IN BLACK

Executive Can Exert Little Influence On Supreme Court

BY JAMES FREE

News Washington Correspondent

July 27-60 WASHINGTON

CAN A PRESIDENT dominate the U. S. Supreme Court? Does the power to fill vacancies on the high tribunal help a president get the kind of legal decisions he likes?

The answer seems to be somewhere between a flat "no" and a qualified "yes."

In these days we sometimes hear the Supreme Court referred to as the "Eisenhower Court," just as in earlier years it was at times called the "Truman Court" and the "Roosevelt Court." Most users of the

SECOND OF A SERIES

terms do it this way to keep track of who was in the White House during a particular court period. A more common device among attorneys is to employ the name of the Chief Justice in a similar manner: The "Warren Court," the "Vinson Court," the "Hughes Court," and so on.

BECAUSE OF these methods of keeping track of court periods, a fair number of persons get the notion that the "Eisenhower Court," for example, must be considerably under the influence of President Eisenhower or the Eisenhower administration.

It is true that a majority of the present court represents the judicial taste, or choice of President Eisenhower. For he nominated five out of the nine: Chief Justice Earl Warren and Associate Justices John M. Harlan, Charles E. Whittaker, Potter Stewart and William J. Brennan Jr.

President Franklin D. Roosevelt was so frustrated by 12 Supreme Court reversals of "New Deal" legislative proposals during his early years in the White House that he came up with his plan to "pack" or expand the nine-member court. Before his death in 1945, however, he had the opportunity to fill seven vacancies and name his own Chief Justice.

BUT THE ROOSEVELT move to pack the court failed. Mounting public support of the New Deal program rather than pressure put on by FDR caused the Supreme Court after 1937 to stop batting down New Deal legislation. Associate Justice Owen J. Roberts and, to a lesser extent, Chief Jus-

tice Charles Evans Hughes, were largely responsible for the changed court position. And Roberts later said he took into account "the popular urge . . . for a unified economy."

It is an open secret that President Eisenhower has been disappointed in the performance of his first and most important appointee, Chief Justice Earl Warren. Mr. Eisenhower knew Warren was on the liberal side, but evidently the President was shocked when the Californian joined the "judicial activists" in deciding against the



Ike . . . Disappointed In Warren

government in a series of cases involving Communists and suspected subversives.

The President reportedly thinks, too, that Chief Justice Warren has tried to move the court at something faster than "all deliberate speed" in school desegregation cases.

PRESIDENT Harry S. Truman picked four men for the court, including a Chief Justice. But in 1952, when the Supreme Court was comprised entirely of Roosevelt and Truman selectees, it nullified Truman's order for government seizure of the steel industry to head off a strike.

The point is: If the court could be reasonably independent of White House influ-

ence after two decades of one party ap- of controls on communism, of pointments in 1952, it is likely to remain censorship, or race relations—so. Unless the Constitution is changed, no and many others.

president can serve longer than eight No big headlines can be expected tomorrow. The court have their own court appointees exert any will simply admit some lawyers considerable influence over decisions ex- to its bar and then adjourn for cept, at best, in the final stages of their a week of secret conferences. second term. Argument and decision of cases will start a week from Monday.

SCOTUS (Supreme Court of the United States) was intended by the founding fathers to be further removed from political pressure of the moment than the president or the Congress. It has been so, generally, and with all its faults, it is still so.

The religious issue in the Presidential campaign may give special import to a group of church-state cases on the docket. Five of these test the constitutionality of Sunday blue laws—state statutes requiring businesses to close on Sunday.

Double Issue Involved

Blue laws involve both religious and commercial controversy. Church groups, in the last few years notably the Roman Catholic Church, have pressed for their enforcement. So have downtown stores fearful of competition from highway merchants who stay open on Sundays.

The legal argument against blue laws is that they are a form of government aid to religion, of the kind barred by the First Amendment. On the other side they are defended as a legitimate, nonreligious device to make sure everyone gets a day of rest.

The constitutionality of blue laws had been widely assumed until recently, when a Federal court in Massachusetts struck down a state law. That case is now here, along with others from Pennsylvania and Maryland, whose laws were upheld by lower courts.

Religion also bears on two cases testing a Connecticut law against the sale or use of contraceptives.

HIGH COURT OPENS BUSY TERM TODAY; FACES KEY ISSUES

Mon. 10-3-60
Study of Church and State,
Race Relations and Curbs
on Reds Mark Docket

5 BLUE-LAW TESTS DUE

Connecticut's Birth-Control
Bans and Film Censoring
Also Slated for Review

By ANTHONY LEWIS

Special to The New York Times.

WASHINGTON, Oct. 2—The Supreme Court convenes tomorrow to begin what may be one of its most significant terms.

A broad range of deeply controversial issues is scheduled for resolution during the term. The court has agreed to pass on questions of church and state,

Highly Touchy Issue

Plaintiffs include a woman whose health would be endangered by another pregnancy and the physician who wishes to prescribe contraceptives for her. Their argument is that the state prohibition deprives them of life and liberty without due process of law, in violation of the Fourteenth Amendment.

Birth control has become a highly touchy issue in this country, in good part because of the Catholic Church's opposition to it. The Supreme Court refused fifteen years ago to pass on the Connecticut law for procedural reasons.

Two of the Federal Government's major weapons against the American Communist party will be tested during the term. They are the Subversive Activities Control Act of 1950 and the so-called membership clause of the Smith Act of 1940.

The first of these set up the Subversive Activities Control Board and directed all "Communist action" and "Communist front" groups to register with it. Travel and other activities of the members of registered organizations were to be severely restricted.

Ten years and innumerable hearings later no group has registered. The Supreme Court heard argument on the constitutionality of the act four years ago but sent the case back on another ground.

The Smith Act question has awaited Supreme Court resolution just as long. It has been on the docket six successive terms and has been argued twice before.

Upheld Partly in 1951

In 1951 the court upheld the constitutionality of a section of the Smith Act that prohibited the organizing of groups to teach or advocate the violent overthrow of the Government. At issue now is a section that makes it a crime merely to be a member of such a group.

The constitutional argument against the Smith Act is, of course, that it inhibits free speech.

In 1951, the Supreme Court weighed against that right the need of the Government to preserve itself against revolution. But the court recently has seemed to look more critically at the Smith Act, and it may be less willing to permit action against party membership than against leadership.

The Government argues that in fact the two men whose cases are in the Supreme Court were

party leaders, not mere casual members. They are Julius and Ethel Rosenberg, a North Carolina interstate traveler to food service and John Francis Noto of Massachusetts.

The court will consider again whether California may exclude from its bar a man who, some witnesses say, had Communist associations and who refuses to answer questions about them. The state bar examiners reaffirmed their position against him after a Supreme Court decision in 1957 ordered another look.

A related case from Illinois involves a man who refused to answer any questions about his political ideas or affiliations. The bar officials had no evidence of any undesirable associations but turned him down.

New York Case on Docket

And from New York comes the question whether a state may disbar a lawyer because he invokes the privilege against self-incrimination in refusing to answer an official inquiry's questions about ambulance-chasing.

Another corner of the free speech problem will be explored in an important movie censorship case. Before the court will be the constitutionality of state and local laws requiring a censor's approval before a film is licensed for exhibit.

The question has often been pressed on the court, but the Justices have sidestepped by finding a particular movie not obscene. But this time the film is not in the record of the case, so the court will not be able to rest decision on the character of the movie.

A company challenging Chicago's censorship refused to show its film to the censors, contending that the cost of fighting them through the courts put too much pressure on it to cut disputed scenes.

The company wants the right to show any film without prior censorship, subject only to later police action.

In the field of race relations the court faces a subtle and difficult problem, one significant for the sit-in movement of Negro students in the South.

Racial Ban at Issue

At issue is the conviction of a Howard University law student for trespass when he refused to leave a "white" restaurant in a bus terminal in Richmond, Va. This raises, among other things, the question of official versus private racial discrimination.

The Constitution prohibits only governmental discrimination. One question in the present case is whether a private restaurant's action becomes "official" and subject to constitutional restraints when supported

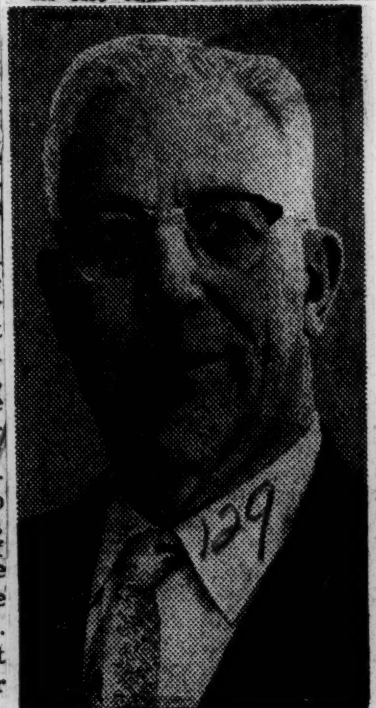
by a state arrest and prosecution. Another is the right of an interstate traveler to food service without racial discrimination.

A case with racial significance and other import involves a challenge to Alabama that changed the boundaries of the city of Tuskegee from a square to a figure with twenty-eight sides. The new boundaries excluded almost all Negro voters.

The lower courts rejected a Negro group's attack on the change, citing Supreme Court rulings that the courts must not interfere with political boundaries. The Justice Department has joined the plaintiffs in asking the court to annul the Alabama law as implicit racial discrimination.

As always, there are many cases testing what is fair criminal procedure. The eternal problems of wiretapping and eavesdropping will be before the court in several new guises.

In one case a man about to



The New York Times

OPENING COURT TERM: Chief Justice Earl Warren.

be prosecuted by New York State wants a Federal court injunction against the state courts' use of wiretap evidence.

The Supreme Court has said that state courts are free to adopt their own rules on wiretap evidence, but it has not passed on the specific question of Federal injunction.

Gamblers' Case Is Up

Another question is whether the constitutional rights of three Washington gamblers were violated when the police drove a spike wired for sound into their wall and eavesdropped. The Su-

preme Court years ago upheld the police use of a "detectaphone" placed against a wall. Frank Costello, the New York gambler, raises a wiretap question in challenging an order stripping him of his citizenship. He says the Government's denaturalization case must fall because it was based on wiretap clues.

Two cases explore the use of habeas corpus by Federal courts to release state prisoners whose constitutional rights were violated. At issue, among other things, is the extent to which the Federal court may re-examine matters already determined by state courts—a touchy subject among state prosecutors and judges.

State-Federal relations may also be a factor in a case testing the right of the victim of police misbehavior to sue under the Federal Civil Rights acts. A Chicago man, who was falsely arrested, subjected to an illegal search and beaten, was turned down by the lower Federal courts when he attempted to collect damages from the police.

A problem that has troubled many judges and others in this country—press reporting of criminal trials—is raised in a California case. Three convicted murderers say their prosecutor drummed up so much newspaper publicity that they could not get a fair trial.

Business Cases on List

The fields of business and labor also produce their usual number of meaningful cases—many of them doubtless affecting more individuals than the great civil liberties tests.

Consolidated Edison, for example, is fighting for the right to bring natural gas to New York to use in its East River generating plant and thus, it says, cut down smoke pollution. The Federal Power Commission said this use of gas was less desirable than use in the home and refused to approve. However, a lower court upset the commission's finding.

The big du Pont case is back for another round. After the Supreme Court found the chemical company's ownership of General Motors stock a violation of the Clayton Antitrust Act, a lower Federal judge refused to order outright divestiture of the stock. The Government appealed.

The Supreme Court has agreed also to review a decision of the Second Circuit Court of Appeals that could mean great changes in the enforcement of commercial arbitration clauses.

The Second Circuit held that the Federal courts should lay down Federal law for the inter-

pretation and enforcement of the police use of a "detectaphone" placed against a wall. transactions. In the past state law had generally been considered to govern, and in some states agreements to arbitrate are not enforceable.

The Federal Government has a last chance in the Supreme Court to keep from paying the Dixon-Yates power combine \$1,867,454 to compensate for cancellation of the ill-fated contract. The court will hear the Government's contention that illegal behavior by the company vitiates its claim.

Rail-Truck Issue Up

And the court will review the huge railroad-trucker case from Pennsylvania. A divided Third Circuit Court of Appeals upheld a judgment for the truckers in their suit that contended the railroads had violated the antitrust laws by lobbying the Legislature to pass legislation favoring the railroads over trucks.

The tendency of state tax claims to conflict will receive another look. The issue is Virginia's right to tax as an intangible asset some cash left by a deceased Virginian in a District of Columbia safe deposit box after the District had taxed it as a tangible asset.

The validity of various union-managed hiring halls and other employment devices under the Taft-Hartley Act is to be tested. The question is whether they adequately protect the rights of nonunion members—and what remedies the National Labor Relations Board may apply to illegal systems.

Finally, the court will hear reargument on a Georgia Supreme Court ruling that the union shop on railroads, requiring union membership, is unconstitutional because a portion of union dues is spent for political purposes of which some members disapprove.

STRONG ON CIVIL RIGHTS

Supreme Court Looks Out For American Little Man

By PAUL YOST

WASHINGTON, July 2. — The Supreme Court in the busiest term of its history showed a growing tendency to look out for the little man in his encounters with government. Time and again in the nine-month term ended last Monday the court's nine justices showed concern for the constitutional guarantees of criminals, people facing deportation, persons subjected to searches and seizures, Negroes denied the vote, and town characters who got harsh treatment from local police.

Such civil liberties bases resulted in some of the widest splits in court voting and occasionally in some unusually sharp language in dissenting opinions.

FOR INSTANCE, Justice William O. Douglas with concurrence of Justice Hugo L. Black denounced his fellow jurists as believing that "personal preference, not reason, seems to be controlling" in some decisions in cases involving due process of law.

Douglas and Black—rated leaders in the court's four-judge liberal bloc—added that "emotion rather than reason dictates the answer" in some due process cases.

Their denunciation came when the court decided the Civil Rights Commission need not disclose to voting registrars the names of Negroes who complain about denial of voting rights.

Chief Justice Earl Warren wrote the majority opinion in the commission case and Justice William J. Brennan was among those who agreed with him. Warren and Brennan are the other members of the liberal bloc.

WHILE THE JUSTICES got into verbal battles over some of the civil rights appeals, they also can reach unanimity occasionally.

As an example, when the highest tribunal stepped into a Louisville, Ky., police court case it ruled unanimously that Negro handyman Sam Thompson had a perfect right to do a "shuffle dance" to jukebox music in a cafe where he was a customer. The nine justices voted to wipe out \$20 in fines imposed on Thompson.

In the term just ended, the court granted hearings on more "miscellaneous docket" appeals than at any time in its history. These usually are appeals by "little people" who get into miscellaneous but often serious trouble with the law and feel they do not get a fair deal.

Hearings were granted on 56 such appeals, compared with 26 in the previous term. The total of miscellaneous appeals received reached 1,119, compared with 1,006 in the previous term.

CIVIL RIGHTS issues also reach the court via its regular docket. The total number of cases taken to the tribunal last term, including the miscellaneous appeals, reached a record high of 2,178. This compares with 2,062 for the 1958-59 term. Looking back to the 1950-51 term, the total was only 1,335.

In addition to clearing the way for Civil Rights Commission hearings on Negro voting rights in the South, the court in its 1959-60 term approved an order to restore names of 1,377 Negroes to the voting rolls of Washington Parish, La.; threw out a ruling by a federal judge in Georgia that the 1957 Civil Rights Law conferred unconstitutional powers on the attorney general; directed that the 1960 Civil Rights Act, permitting Federal Government suits against states, should be applied to enforce Negro voting rights in Alabama.

In other civil rights cases, the court:

- Refused to interfere with the State Department policy of denying passports for travel in Red

- Refused to interfere with a

- Refused to interfere with a

New Jersey law that bans racial discrimination in housing, as applied to FHA-insured homes.

- Struck down a Los Angeles ordinance that made it a crime for a bookseller to have an obscene book in his shop, whether or not he knew its contents.

- Struck down another Los Angeles ordinance that banned distribution of handbills that do not show names of persons who prepared, distributed, or sponsored them.

- Ruled suspicion is not enough to justify an FBI agent to arrest a citizen.

- WARNED STATES that criminal convictions will not be allowed to stand if they resulted from confessions that the Supreme Court concludes were involuntary.

- Overturned convictions of two Arkansas leaders of the National Assn. for the Advancement of Colored People who refused to disclose association membership rolls and list contributions.

- Upheld a California law requiring dismissal of any public employe who refuses to tell state or congressional investigators whether he is a Communist Party leader.

- Decided federal courts may not use evidence illegally obtained by state and local officers.

- Upheld a Dayton, Ohio, ordinance permitting housing inspectors to enter a home without a warrant.

IN OTHER FIELDS, some of the court's major decisions:

- Enforced an 80-day truce in the national steel strike, resulting in the end of the shutdown. Validity of the Taft-Hartley Labor Law's machinery for ending national emergency strikes through injunctions was upheld.

- Ruled out military trials during peacetime for civilians who accompany the armed forces overseas.

- Refused to interfere with the State Department policy of denying passports for travel in Red

China.

- Held Texas and Florida are entitled to submerged Gulf of Mexico lands for a distance of about 10½ miles from their coasts. Alabama, Louisiana and Mississippi seaward boundaries were restricted to about 3½ miles. (The latter three states have asked the court to reconsider and grant them 10½ miles.)

OBTAINED BY STATE High Court Bars Use Of 'Illegal' Evidence

WASHINGTON (AP) — The Supreme Court Monday barred use in federal criminal trials of evidence illegally obtained by state and local police officers.

By a vote of 5-4, the court swept aside the old "silver platter" doctrine. Under it, federal prosecutors could use evidence unlawfully obtained by state and local officers. Under the new rule, state-obtained evidence must meet the test of the Fourth Amendment's guarantee against unreasonable search and seizure.

Speaking for the majority, Justice Potter Stewart summed it up: "Evidence obtained by state police officers during a search which, if conducted by federal officers, would have violated the defendant's immunity from unreasonable searches and seizures under the fourth amendment is inadmissible over the defendant's timely objection in a federal criminal trial."

Justice Felix Frankfurter, in a dissenting opinion concurred in by Justices Tom C. Clark, John M. Harlan and Charles E. Whittaker sharply criticized the new doctrine. Frankfurter said it overturned "a rule of evidence always the law and formally announced in 1914 by a unanimous court."

In its final session of its 1959-60 term, the court handed down formal opinions in 16 cases and disposed of scores of others in brief orders. The court's 1960-61 term will begin Oct. 3.

Among other major actions the court:

- 1. Divided 4-4 in upholding

not conspire to act illegally.

Warren said in a dissenting opinion that the centuries-old common-law rule that husband and wife cannot be legally joined in a conspiracy charge should not be lightly dismissed. If it is to be changed, he said, Congress not the court, should do it. Black and Whittaker agreed.

4. Refused to review the Boston federal court conviction of Bernard Goldfine, New England textile magnate, for contempt in federal court in Boston. The court refused also to review the similar conviction of Goldfine's secretary, Miss Mildred Paperman.

Goldfine was sentenced to three months in jail and Miss Paperman to 10 days in jail on charge of disobeying an order by U.S. Dist. Judge Charles E. Wyansk to produce records sought by the Internal Revenue Service.

5. Agreed to review a decision that wiretap evidence may be used in criminal trials in state courts. The decision was given by the U.S. Court of Appeals in New York. Wiretap evidence is barred in federal court.

Dayton, Ohio, ordinance requiring householders to admit building inspectors without search warrants. The tie vote resulted from the fact that Justice Stewart, an Ohioan, took no part in the case.

Justice William J. Brennan wrote a dissenting memorandum in which Chief Justice Earl Warren and Justices Hugo L. Black and, William O. Douglas joined. Brennan's chief argument was that inspectors should be required to obtain search warrants.

2. Dismissed by a 5-4 vote the appeals of five Negroes convicted of trespassing on a city-owned, privately operated golf course in Greensboro, N.C.

Stewart speaking for the majority said no federal question was involved in the case because of the failure of Negroes to raise such a question in their appeal before the North Carolina Supreme Court. Warren, joined by Black, Douglas and Brennan, disagreed. Warren said the Negroes should be allowed to press their claim of unconstitutional racial discrimination in the North Carolina Supreme Court.

3. Ruled 6-3 that a husband and wife may be charged with a conspiracy.

Frankfurter rejected the old common law idea that a husband and wife are one legal person and could not be charged with a conspiracy, since it takes two people to conspire.

Frankfurter said legal business enterprises between husband and wife have long been commonplace and that it "would enthrone an unreality into a rule of law" to suggest that man and wife could

High Court Rules On 2 Districts

Portion Of Park
Will Open; Pupils
Rejected At Schools

WASHINGTON, D. C. — A U. S. Supreme court decision last Thursday paved the way for desegregation of first grade classes in two of the nation's largest segregated school districts.

The high tribunal rejected pleas for delay in the integration of schools in Houston, Tex. (the largest segregated school system) and in New Orleans.

THE HOUSTON school board was put under court order to desegregate its first grade on school-opening day, Sept. 7. The board had said that it stood to lose millions in state aid under a state law preventing desegregation unless approved by voters.

The New Orleans school board was under order from a 3-judge court to desegregate on Nov. 14. Both boards had asked delays, claiming various other problems.

IN OTHER developments: At Fredericksburg, Va., five colored students were turned away when they tried to register at Stafford county's all-white high school. Two others tried to register at Cradock high in Portsmouth and were turned away. At the same time, integrated classes were resumed without incident at two formerly white high schools in the southwest Virginia county of Floyd.

• Virginia Gov. J. Lindsay Almond authorized re-opening of a portion of Seashore State Park, which has been closed for five years because of a Federal court integration order.

• At Greensboro, N. C., Federal Judge Edwin M. Stanley

set date for trial of an integration suit against the Chapel Hill Board of Education.

• Atlanta Police Chief Herbert T. Jenkins asked for new city ordinances to define a gathering of four or more persons "for the purpose of marching, demonstrating or trying to influence people" as a parade, requiring a special parade permit, and

• Florida Gov. LeRoy Collins implied that communities which fail to set up effective racial committees are inviting racial strife. Jacksonville, hit last week by racial violence, does not have such a committee.

Busy Term Ahead For High Court

By Charlotte G. Moulton

WASHINGTON — (UPI) — The Supreme Court went back into session Monday to tackle a 1,000-case docket highlighted by disputes over race relations and religion.

The 1960-61 session promised to be a busy one, even if the court should take no new cases. Just the ones it accepted before adjournment in June will require a lot of work.

The formal opening at noon was customarily brief—25 minutes—and consisted of formalities in which about 100 attorneys were accepted to argue cases before the high court.

The nine justices will spend the rest of this week clearing away many of the appeals filed while they took their summer recess.

About half of the flood of petitions that greets the court when it comes back are from penniless jail inmates who claim the lower courts did not give them a fair deal. Only a few of these are accepted for hearing.

Next Monday, the court will issue a thick sheaf of orders revealing which cases, including those of broad national interest, will be argued and decided.

Among the major matters coming up are challenges to:

—The right of a restaurant leased from a state agency to refuse service to Negroes.

Louisiana's law requiring the Pont antitrust judgment; and charges by long-distance truckers that 24 eastern railroads have illegally conspired to destroy the trucking industry in the northeast.

—The constitutionality of a Pennsylvania law which requires Bible-reading in public schools.

—Sunday blue laws in South Carolina, Massachusetts, Pennsylvania and Maryland.

—Maryland's requirement that public office holders declare a belief in God.

The racial issue appears in objections by a group of Negroes to the 1957 re-zoning of Tuskegee, Ala., by the state legislature. They contend their right to vote has been taken away.

A Negro law school student has attacked segregation in restaurants of interstate bus terminals. And Negro teachers are fighting a 1958 Arkansas law requiring public school teachers to list all organizations to which they have belonged or contributed in the past five years.

The religious issue comes to the fore in tests of the Sunday blue laws in Massachusetts, Pennsylvania and Maryland. The statutes, which originated in Colonial times, restrict Sunday retailing.

Religious teachings indirectly are involved in the constitutional challenge to Connecticut's law against use of contraceptives.

Weatherbeaten Communist issues actually come first on the argument schedule, which starts next week. Two appeals test the constitutionality of the "membership clause" of the Smith anti-communist act. This issue was carried over from last term.

Next is the appeal of the Communist party, which for 10 years has staved off registering with the government under the 1950 Internal Security act.

Later the court will hear complaints of two lawyers who have been kept out of state bar associations because they refused to answer questions about possible Communist affiliations.

In the labor field, new arguments are coming up on whether the dues of a worker who is compelled to join a union may be used for political purposes over his objection. The court heard the case last term but re-scheduled it.

A test also is ready on the legality of exclusive union hiring halls where specific protection is not afforded non-union workers. The court has further agreed to examine film censorship in Chicago; the Dixon-Yates contract case; last year's General Motors-Du

Mixing Cases Up To Court

Mon. 10-3-60
Many Vital Issues

Are on Calendar

P. 14-C
United Press International

WASHINGTON — The Supreme Court reconvenes Monday with a case load of vital economic, social and religious issues as heavy as any in recent memory.

The nine justices return to the bench at noon for a brief session to open the 1960-61 term. Attorneys will be admitted to the bar.

The court will spend the rest of the working week in conference to decide which of the appeals filed during the summer will be accepted for review.

Communism and racial segregation are high on the docket of cases already accepted and waiting to be heard.

The court has also agreed to examine the Sunday blue laws of three states, film censorship in Chicago, Connecticut's birth control law, the Dixon-Yates electric power contract case, and the General Motors-DuPont anti-trust judgment of a year ago.

Another anti-trust appeal concerns charges by long-distance truckers that 24 eastern railroads have illegally conspired to destroy the trucking industry in the northeast.

In the labor field, the court has scheduled new arguments on whether the dues of a worker who is compelled to join a union may be used for political purposes over his objection. The case was carried over after hearings last term.

The court has also agreed to rule on the legality of exclusive union hiring halls where specific protection for non-union members is lacking.

On Oct. 10 the court will announce the results of its week long conference to clear out the summer backlog. Some of these appeals concern:

A BAN imposed by an Atlanta judge on picture taking by newspapers in his courtroom or, on the streets and sidewalks outside.

CONSTITUTIONALITY of bible-reading in Pennsylvania public schools.

A LOUISIANA LAW requiring the National Association for the Advancement of Colored People to disclose its list of members and contributors.

MARYLAND'S requirement that public office-holders declare a belief in God.

LEGALITY of beaming major league baseball radio-casts and telecasts into minor league territory.

TENNESSEE'S apportionment of voting districts for seats in the general assembly.

CHALLENGE by a 24-year-old Dallas, Texas, college student to the simultaneous senate and vice presidential races of Sen. Lyndon B. Johnson, D., Tex.

THE COMMUNIST PARTY, which has been fighting for 10 years to avoid registering with the government under the 1950 internal security act, is about to have another day in court. Arguments on the constitutionality of that law, and two challenges to the "membership clause" of the Smith-Anti-Communist Act are at the head of the list starting Oct. 10.

A second hearing has also been accorded Raphael Konigsberg of Los Angeles, twice denied admission to the California Bar for refusal to answer questions about Communist affiliations. George Anastaplo, a University of Chicago instructor, has won a hearing on a similar appeal.

SEGREGATION cases to be heard this month include a complaint over the rezoning of Tuskegee, Ala. This petition was filed by a group of Negroes who said the action took away their right to vote. The Alabama legislature passed the rezoning law in 1957.

12d 1960

SUPREME COURT

EX-JUDGE SCORES

CRITIC OF COURT

The New York Times
Ridicules Professor's Charge
That High Bench Takes

on Too Much Work

By ANTHONY LEWIS

Special to The New York Times.

WASHINGTON, May 15—A noted Washington lawyer and former judge, had ridiculed the view that the Supreme Court is overworked, writes inadequate opinions and needs to change its habits. In an article in the current Harvard Law Review, Thurman Arnold strongly defends the present court's performance. Mr. Arnold was once head of the Justice Department's Antitrust Division and was a judge on the United States Court of Appeals here.

His article is a biting, indeed savage, reply to one by Prof. Henry M. Hart Jr. of the Harvard Law School, which appeared in the law review last fall. Professor Hart concluded that the justices took on too much work and that their opinions failed to meet "elementary standards."

"The plain and simple fact," Mr. Arnold writes, "is that they are not overworked and that, in my judgement, their opinions nevertheless rank higher than the articles which appear in The Harvard Law Review whose authors have limitless time available."

Scoffs at Conferring

Mr. Arnold takes particular aim at Professor Hart's view that the members of the court should take more time conferring with each other. Professor Hart said that this process—"the maturing of collective thought"—would produce better opinions and fewer dissents.

"There is no such process as reviews a negligence case in or this," Mr. Arnold replies, "and there never has been; men of positive views are only hardened in those views by such conferences."

"There is no possibility that I could pool my wisdom with Professor Hart's so that the wisdom of both of us, 'success-

fully pooled,' would 'transcend the wisdom of either of us. The reason is that I do not think his wisdom is real wisdom, and I am sure that he has the same opinion of mine.

Calls Justices Individuals

"To lock the two of us in a room until I came to agree with the theology of Professor Hart by the process of the 'maturing' of our 'collective thought' would be to impose a life sentence on both of us without due process of law."

Mr. Arnold makes the point that the Supreme Court, unlike a body that can only operate by unanimity, such as a jury, is made up of men with strong views and with the right to express those views individually.

"To suggest that judges who hold differing views with absolute convictions and who have the power to dissent are going to surrender those views, moved solely by logic and debate," he says, "is to betray a lack of knowledge of the history of the court."

"I have no doubt that longer periods of argument and deliberation, and more time to dissent, would only result in the proliferation of opinions, of which we already have too many."

He declared: "The only kind of court that could successfully follow Professor Hart's prescription would be a court composed of men without deep-seated convictions about current national problems, a court whose members have not had enough experience with the controversial ideas which the court must eventually express as law to have ever taken sides in the struggle."

"Such a court might be found in a Trappist monastery." The article also takes issue with the position taken by a minority of the justices, and accepted by Professor Hart, that the court wastes its valuable time when it agrees to re-view the sufficiency of the evidence in railroad and maritime injury cases.

"When the Supreme Court reviews a negligence case in or this," Mr. Arnold replies, "and there never has been; men of positive views are only hardened in those views by such conferences."

"There is no possibility that I could pool my wisdom with Professor Hart's so that the wisdom of both of us, 'success-

lowly litigants. Access to the

Supreme Court by the lowliest citizen whose livelihood has been destroyed by an accident in the course of his employment is tremendously significant to what Professor Hart calls 'the court's position in the institutional structure'."

Mr. Arnold concludes by chiding Professor Hart for giving aid and comfort to those who are critical of the present Supreme Court over its decisions upholding individual rights.

School Desegregation Six Years After May

Atlanta Daily World 17, 1954 *Atlanta, Ga.*
May 17-18-60

Six years ago, May 17, 1954, the U. S. Supreme Court in a unanimous opinion outlawed segregation in public schools. Since that momentous decision in which the court spelled out in unmistakable language that "We conclude that in the field of education the doctrine of 'separate but equal' has no place," less than six percent of the South's Negro school children have been integrated into white schools.

The slow pace of compliance with the high court decree has generated a spirit of unrest that has spilled over into other phases of Negro life. From this non-violent dissatisfaction with hard core defiance and resistance has sprung protests that dramatize the necessity of moving forward in implementing the court's ruling.

The Supreme Court made it clear that "separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and other similarly situated for whom the actions have been brought are by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment."

Atlanta and New Orleans are under court orders to admit Negro students. Those who are responsible for putting into effect desegregation of these school systems should approach the task in calm, responsible and orderly fashion.

It is unrefutable that the U. S. Supreme Court was wise and just in stating: "Segregation of white and colored children in public schools has a detrimental effect upon colored children. The impact is greater when sanctioned by law; for the policy of separating the races is usually interpreted as denoting the inferiority of the Negro group. A sense of inferiority affects the motivation to the child to learn. Segregation with the sanction of law, therefore, has a tendency to retard the educational and mental development of Negro children and to deprive them of the benefits they would receive in a racially integrated school system."

The moral significance of the U. S. Supreme Court decision should be etched on the conscience of the South. Yet, tragically enough, there are still 2,500,000 Negro children in segregated schools.

School desegregation has taken place in all but five states — Alabama, Georgia, Mississippi, Louisiana and South Carolina. Two of the five states have cities who are under court order to begin desegregation in 1960 and 1961.

It is essential that those who would thwart the progress of Negro children through legal roadblocks, connivance and deceit, should take note of the May 17, 1954 decree to wit:

"To separate them (Negroes) from others of similar age and qualification solely because of race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone."

The above explanation is the heart and core of what the May 17, 1954 decision means to the Negro and thus girds him for the determination to make the decree meaningful to the South, which must seek ways to make school desegregation a fact.

Many Changes SEGREGATION, 6 YEARS AFTER COURT RULING

By MIKE EDWARDS

In the six years and five days since the Supreme Court ruled that segregation of public schools will not be countenanced, Georgia, although hard put to do so, has managed to keep from integrating any of her public educational facilities.

But those six years have brought—or wrought—definite change in the way the state looks at the whole massive question of segregation vs. integration, of public schools vs. private or no schools. New attitudes are apparent among both whites and Negroes.

Among whites, there has been a trend away from the total resistance concept. The inevitability of some integration is now accepted by many—but certainly not all—Georgians. A vigorous movement to preserve the public school system has been started, implying, if need be, the puncturing of the state's segregationist armor plate.

The big change in the Negro is in his willingness to express himself. Outside the ranks of the NAACP, there were a few expressions of any kind from Georgia Negroes at the time of the court's ruling. The Negro now expresses himself both in word and deed. In sit-in demonstrations, in threats of store boycotts and in marches such as the one on the State Capitol last Tuesday (on the anniversary of the court's ruling), the Negro is now showing how he feels.

These changes are, of course, only one part of the picture. There remains, especially in the rural counties, a gigantic bloc of total segregationists, vowing they will never have things any other way.

IT IS CLEAR THAT INTEGRATION still is regarded distastefully by many whites in all areas of the state, and it still is fashionable for a politician on a podium to condemn the Supreme Court President Eisenhower, the NAACP and "misguided liberals." He can depend on getting applause when he does so.

Dynamitings and fights on trolleys still occur. There was a racial brawl in a park at Savannah. The Legislature in its last session still was grinding out measures seeking to safeguard segregation. If anything, cross burnings have become more frequent.

And the evidence does not show that the average Negro is an active participant in the civil rights fight. The demonstrating has been done mostly by college students.

Nevertheless, when lumped together, the changes that have taken place among both whites and Negroes make up the biggest and certainly the most significant development that has occurred in Georgia since May 17, 1954.

Why have there been changes?

Among whites, perhaps the biggest reason is that integration has been moving steadily nearer to hand. The Negroes won an order banning racial discrimination in the Atlanta school system, and just this month the United States District Court gave a date for implementation of the city's desegregation plan—May, 1961.

MEANWHILE, WITH THE POSSIBLE after-effects of school closings given thorough examination, the big question has become one of a choice between segregation and integration and more of one between public schools or private or no schools. This is the heart of the save-the-school movement and the cornerstone of the demand for local option.

Among both white and Negroes, the new attitudes reflect the

coming on the scene of active leadership.

In 1954 a handful of whites fought the private school plan. The number of 1960-style save-the-schools campaigners is many times larger. Undoubtedly the Negro has been encouraged by the work of Dr. Martin Luther King Jr. A number of other Negroes have become active leaders.

While they have not come over to the save-the-schools camp, many state political leaders are more temperate in their remarks



J. S. Peters G. P. Whitman Jr. M. D. Collins Sen. Talmadge

about segregation now. They have not abandoned the resistance theme; but they have soft-pedaled it. They spent much of their time this year seeking to assure the public that schools will be preserved. Segregated schools, of course. But this is a major departure from the segregation-at-all-costs theme which greeted the court decision. And little is heard now of the view that actual integration is many years away, if, indeed, there is to be any at all.

ONE OF THE BEST ILLUSTRATIONS of what has happened in six years is to be found in comparing the Georgia Education Commission of 1954 to the Sibley commission of 1960.

The Georgia Education Commission was summoned into session by then Gov. Herman Talmadge immediately after the court ruled. Its purpose was to find means of circumventing the decision.

It heard many views—mostly in favor of maintaining segregation—and ended up urging, by a vote of 11 to 3, ratification of the private school amendment by the voters that fall. It was ratified, and later the commission endorsed bills to implement the plan.

In its hearings this year, the Sibley commission heard many persons urge closing the public schools if need be. But it also heard many plead for local option.

THE COMMISSION ENDED ITS WORK with an 11-man majority urging a freedom-of-choice plan for the state. The minority, seven members, called for additional private school plan legislation.

There are other examples.

In June, 1954, George P. Whitman Jr., then chairman of the State Board of Education, told the board the state must choose between unsegregated schools and private schools—"there is no middle ground."

The present board chairman, James S. Peters, was found earlier this year to have written a letter to Roy Harris declaring that "some form of integration is inevitable" and warning that school closings might spell the doom of the Talmadge political forces.

Gov. Talmadge in 1954 declared: "The Georgia Constitution provides for separation of the races. It will be upheld."

Last year, he offered in the U.S. Senate a constitutional amendment to allow the states and their political subdivisions control over local affairs. Although some persons held this to be in keeping with Mr. Talmadge's segregation position, it was enough of a change in the view of others, to be interpreted as meaning he accepted the local option principle.

IN 1954, STATE SCHOOL Supt. M. D. Collins predicted it would be 50 years before segregation is ended in Georgia, "if then." Mr. Collins, now retired, came out for local option this year. His replacement, Claude Purcell, has backed public schools.

In 1954, Jim Cherry, DeKalb County school superintendent, said

he thought the Supreme Court decision might "remain largely an abstraction."

This year he said "equal and separate schools can be maintained . . . with few exceptions" and led the fight for adoption by the Georgia Education Assn. of a resolution supporting local option, pupil placement and parental choice.

The resolution was adopted, representing a sizable change in GEA viewpoint. In 1959, the association had resolved in favor of equal, separate schools.

Other manifestations of the change are these: The Atlanta Chamber of Commerce took a stand, one favoring local option; Rep. M. M. (Mugsy) Smith tried two years running to get the Legislature to clear the way for pupil placement, and the DeKalb legislative delegation offered its parental choice plan; Atlanta ministers offered a manifesto saying obey the law and don't destroy public schools; and thousands of Georgians expressed their desire for continued public schools in letters, telegrams and petitions.

But perhaps the most significant one act was the Legislature's decision to have a commission hold hearings on the whole issue—the first piece of legislation to recognize the possibility that there is more than one side to the question.

Southern Leaders Fire New Blasts At Supreme Court

that Associate Justices Douglas and Black "who are recognized

WASHINGTON — (AP) — Sen. as the most extreme liberals on Herman E. Talmadge (D-Ga.) the bench, disagreed with Warren's decision today that "political con- ren's decision."

siderations and personal biases" motivate Supreme Court justices.

And Sen. Richard B. Russell (D-Ga.) asserted that Chief Justice Warren hates the South.

Their opinions came in commenting on the high court's Monday decision upholding rules of the Civil Rights Commission that prevent southern registrars from cross examining their accusers at voting hearings.

Rep. Kenneth Roberts (D-Ala.) said that by its decision the court was guilty of the same thing it accused the registrars. "They are denying the registrars their right, under the Bill of Rights, to be confronted by their accusers."

Russell said:

"I have been forced to the conclusion that Warren's hatred of the South is so great that he would not recognize the constitutional right of any southern white man unless his action had the prior approval of the national colored peoples' association."

Russell, leader of the southern group in civil rights battles in the Senate, said that in the Civil Rights case it was noteworthy

High Court Rules Out 'Interposition'

The Supreme Court pushed aside the State of Louisiana's "interposition" argument yesterday as it refused to order an end to school desegregation in New Orleans. The justices needed just one sentence to dispose of the basic objection raised by Louisiana to the orders of a three-judge Federal court. This objection was based on the theory that a state can take jurisdiction away from a Federal court by "interposing" itself between the courts and the schools.

The sentence said: "This objection is without substance, as we held upon full consideration, in *Cooper v. Aaron*." The *Cooper* case involved school desegregation in Little Rock. It was decided in 1958. Thus, while the Court was acting only on a motion that it block the issuance of injunctions by the three-judge court until it reviewed "interposition", it made it clear that any appeal based on "interposition" is futile.

The Court also indicated that any other appeal for Louisiana is futile. It took care of the other objections raised by the State to the school-desegregation orders with the sentence, "The others are likewise without merit."

This should end the waiting period that descended over New Orleans after the three-judge court blocked the enforcement of two dozen State laws last month. All the laws are designed to keep the schools segregated.

Since that time, neither the State Legislature nor the School Board has made more than token legal moves. Everyone said he was waiting for the Supreme Court to act.

Almost everyone knew what the Court would say about "interposition" when it got the chance, but Louisiana officials insisted that the Justices say it again.

The Justices got the chance because Louisiana's Attorney General Jack Gremillion asked for a stay of the lower court orders. Such a stay would have put into effect the laws

now knocked out by the injunction and would have put control of the New Orleans schools in the hands of the State Legislature rather than the School Board. The result would have been to reinstitute segregation at the two schools that have been desegregated. Under Federal court procedure, the State had to make a showing that its contentions were more than frivolous if it was to win the stay. The Justices obviously thought the contentions mere shadow boxing.

In the case cited as precedent, the Court had recalled the words of Chief Justice John Marshall written 150 years ago, "If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the Constitution itself becomes a solemn mockery..."

State officials in Louisiana have not indicated what course they will now follow. They can press their appeal of the lower-court orders despite the Supreme Court's hint that this would be unsuccessful or they can adopt some other method of attack.

PROFESSORS ASSAY TOP COURT'S WORK

The *New York Times*
U. S. Justices Are Criticized in First Annual Review

by Teachers of Law

By ANTHONY LEWIS

Special to The New York Times.

WASHINGTON, Dec. 11—The first in a series of annual volumes reviewing the work of the Supreme Court has been published by the University of Chicago Law School. The purpose of the publication is to provide a more expert, understanding security of the court. It is, in effect, a book-length law review devoted

entirely to the court's work.

Prof. Philip B. Kurland of Chicago is editor of the 326-page volume. Contributors in the first issue include the dean of the law school, Edward H. Levi, and two other professors there, Harry Kalven Jr. and Bernard D. Meltzer. Other contributors are Prof. Edward L. Barrett Jr. of the University of California Law School; Associate Prof. Kenneth L. Karst of Ohio State Law School; David P. Currie of New York and Prof. Charles L. B. Lowndes of the Duke University Law School.

Scholarly Criticism

In its first issue, *The Supreme Court Review*, as the publication is called, maintains the scholarly tradition of sharp if respectful criticism.

Professor Lowndes, for example, states his thesis as follows:

"It is time to rescue the Supreme Court from Federal taxation; it is time to rescue Federal taxation from the Supreme Court."

As to rescuing the court, Professor Lowndes' point is that tax cases impose a heavy burden on the court and often involve trivial issues. He says that it is "shocking to think that the Supreme Court must turn its time and talents to trifling disputes such as these."

But his major point is that having the Supreme Court as the final arbiter of tax cases "is detrimental to the law of taxation, in large measure because it defers interminably the interpretation of the tax laws." He suggests that Supreme Court tax decisions are often "futile" and make ineffectual precedents.

Narrow Rulings Scored

"One reason is that it often takes so long to get a tax case before the court that by the time it arrives Congress has changed the statutory provisions involved," Professor Lowndes says. "Even when Congress does not change the law before a tax case reaches the Supreme Court, it frequently does so soon afterward."

"Apart from exposure to the constant danger of Congressional nullification, Supreme Court cases construing the Federal income tax make poor precedents because they frequently involve the application of a statutory standard to a specific factual situation rather

than the formulation of a legal rule of general application.

"Finally, some Supreme Court cases constitute unsatisfactory precedents because they are unsatisfactory decisions. The justices of the Supreme Court are not infallible; nor are they immune to the occasional aberrations of the ablest judges. Although it is difficult to evaluate, the Supreme Court seems to reach about the same proportion of bad decisions as do the lower courts."

Backs Tax Appeals Court

Professor Lowndes endorses a proposal made by, among others, Dean Erwin N. Griswold of the Harvard Law School. Dean Griswold favors setting up a court of tax appeals to render final decisions in most tax cases.

While critical, the review does emphasize the difficulty of the problems facing the justices.

Professor Kalven, for example, finds the court's opinions on the issue of obscenity highly unsatisfactory. But he also traces the many factors that have to be considered. He commends the Supreme Court.

"The rest of us are fortunate indeed that our job is so much easier and less responsible."

Dean Levi writes about the *Parke, Davis* case of last spring, in which a 5-4 majority seemingly restricted the right of a manufacturer to enforce the maintenance of fixed retail prices in a non-fair-trade situation. He is critical of both opinions.

Professor Meltzer also frowns on both majority and minority efforts in writing about a decision last spring that a railroad could not get a Federal court injunction against a strike to enforce a union demand that no jobs be abolished without its consent.

Skeptical on Principles

Mr. Karst appeals for more thorough exploration by the parties of the facts underlying constitutional issues so that the issues will not be decided in a vacuum. He is skeptical of the claim by some justices that they decide cases on abstract principles and argues that, in fact, they weigh competing values even when they say they do not.

Mr. Currie tries to make some sense out of the mixture of Federal and State law in the admiralty field, a mixture that, quoting Ibsen, he calls "the devil's own mess." Surveying the last twenty years, he says that the Supreme Court never relies on State law if it would

decrease the rights of injured seamen.

Professor Barrett suggests that in criminal cases the court has been excessively concerned about protecting property from illegal search and seizure and not enough concerned about protecting individuals from illegal arrests.

When Is A Hamburger In Interstate Commerce?

THE U.S. Supreme Court seems to have temporarily benched the 14th Amendment in racial cases.

The 14th forbids any state to "deny to any person within its jurisdiction the equal protection of the laws."

The school segregation decision was based on the 14th and the Montgomery city bus case relied on the school decision. So have many other similar rulings.

But in the *Tuskegee* case, the court rested its decision on the 15th Amendment—the right to vote—although one of the concurring justices casually noted it might have been better law to use the 14th again. His reasoning: the right to vote in county, state and national elections had not been abridged by the gerrymander law, since the plaintiffs had only been excluded from the city.

Monday, the Supreme Court again avoided the 14th in outlawing segregation in restaurants which operate "as an integral part" of interstate bus terminal facilities. This sidestepping was immediately interpreted as a calculated effort to avoid the legal issues in the sit-in demonstrations. The hamburger & coffee crusaders would have been delighted with such a precedent and the Supreme Court might have been in the snack bar business for the rest of this century.

★
INSTEAD of the belabored 14th, the court cited the Interstate Commerce Act, section 3 of which makes it unlawful for carriers "to subject

any particular person . . . to any which the ICC ordered a number of tion . . . of separate lunchroom undue or unreasonable prejudice or defendant railroads (including facilities for white and colored persons in the railway station . . . disadvantage in any respect whatso-eral operating in Alabama) to cease sons in the railway station . . . con- segregating passengers in coaches and stitutes a function or service which is not within the jurisdiction of this commission."

One of the defendants in that case Monday the Supreme Court said the operator of segregated lunch section 3 does apply to terminal rooms at a Richmond, Va., terminal. The ICC dismissed this part of the complaint, holding that "the opera-

tion did not apply to terminal eating facilities. That was in the case in

★ BESIDES this contradiction, and

others implicit in transportation segregation decisions by the courts and regulatory agencies, there is curious evidence of cross-fertilization and inbreeding up and down the line. For instance:

¶ The 1955 ICC order was based in part on the Supreme Court's school segregation decision. One of the commissioners dissented with the comment: "It is my opinion that the commission should not undertake to anticipate the court and itself become a pioneer in the sociological field."

¶ The Supreme Court has invalidated a state bus segregation statute (Virginia's) because it placed a restriction on interstate commerce, not because of the constitutional guaranty of equal protection of the laws.

¶ In the Montgomery city bus case, the three-judge federal court harked back to the school decisions for the precedent. And the school decision itself overthrew the 1896 *Plessy vs. Ferguson* case, which authorized separate-but-equal facilities on railroads.

¶ In September, the Civil Aeronautics Board rejected a petition demanding integration of airport facilities at Dannelly Field. The CAB expressed doubt that the airlines are under any obligation to provide terminal facilities, adding that the board has no jurisdiction over Montgomery's operation of the airport. Further, the CAB said the Interstate Commerce Act is not applicable, that if the petitioners have a case it's in federal court.



MANY railroads, including several operating in Alabama, pulled down their "White" and "Colored" waiting room signs in compliance with the ICC order which went into effect in early 1956. But the Alabama Public Service Commission, and its counterparts in some other southern states, directed that new signs be erected reading "Intrastate White" and "Intrastate Colored," or something similar.

The theory was that segregation for passengers traveling within the state was beyond the jurisdiction of the ICC. In a few instances, a third waiting room has been provided for "Interstate Passengers," making integration voluntary.

However, these semantics are not likely to discourage the Supreme Court for long, having ruled that a privately owned lunchroom is in interstate commerce.

Court to Hear Teacher Case

By Richard L. Lyons
Staff Reporter

The Supreme Court agreed yesterday to decide whether Arkansas may constitutionally require teachers to submit sworn statements of organizations they have belonged to in the past five years.

In other actions, the Court reaffirmed its policy against deciding questions in cases settled by other means and thus presenting no real controversy, had a brief re-run of its squabble over "unimportant" cases and reminded lower courts that persons may not be excluded from jury duty because of race.

The Arkansas case had its beginning in the Little Rock school desegregation struggle. A special session of the Legislature in August, 1958 passed a package of anti-integration laws, including one which was used to close Little Rock's high schools for a year, and another which required teachers to submit statements of organizations they had belonged to or made contributions to during the past 5 years. Early in 1959, the Legislature passed a companion law which prohibited members of the National Association for the Advancement of Colored People from holding a public job in Arkansas.

Appeal by NAACP Member

B. T. Shelton, a Little Rock Negro teacher and admittedly an NAACP member, refused to submit the statement and challenged the validity of the law. A three-judge Federal court in Little Rock struck down as unconstitutional the bar against NAACP members holding public jobs. But it upheld the law requiring statements of membership on grounds that an employer has a right to know what organizations his employees belong to.

Shelton appealed to the Supreme Court, arguing that the law would curb the exercise of the constitutional

freedom of association by discouraging participation by teachers in organizations thought to be unpopular with their superiors.

The Court took these other actions:

- By a 6-to-3 vote it refused to decide the constitutionality of a Missouri law permitting state seizure of public utilities in the event of a labor strike, because the case involved a strike which was settled 3½ years ago and thus now presents no legal controversy. The Court refused to rule on a similar Virginia law 6 years ago for the same reason. Most strikes are settled long before a case normally can reach the Supreme Court.

Justice Potter Stewart, speaking for the majority, quoted earlier opinions stating that the Court's duty "is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions or abstract propositions, or to declare principles or rules of law which cannot affect the matter in issue in the case before it."

Chief Justice Earl Warren and Justices Hugo L. Black and William J. Brennan Jr. dissented. They said that since Missouri courts had upheld the law after the strike had ended, the Supreme Court should review the case and reverse it on grounds that this is a Federal field in which the states have no right to operate.

Accident Case Remanded

- By a 6-to-2 vote, the Court decided the trial judge was wrong in not letting the jury decide whether the Virginian Railway Co. was negligent because a Norfolk worker

slipped off a freight car and broke an ankle.

Justices Charles E. Whitaker and John M. Harlan dissented. Harlan said the decision "provides another example of the futility" of one court substituting its judgment for another's on a given set of facts. "This case has not been profitable business for this Court," he said.

Justice Felix Frankfurter followed his practice of refusing to vote on such cases. He argues that they involve only facts which should be settled by lower courts, are of interest only to the litigants and take time the Supreme Court should devote to legal questions of national importance.

- In a brief order the Court sent back to a Federal Court in New Orleans cases of two Negroes sentenced to death for rape of a white woman with instructions to determine whether Negroes had been "deliberately and intentionally" excluded from their trial jury. The Supreme Court has reversed several convictions of Negroes when it decided members of their own race were "systematically" barred from jury duty.

High Court To Rule On Arkansas Law

WASHINGTON (AP) — The Supreme Court agreed Monday to rule on an Arkansas law which

Negro teachers say is designed to deter them from supporting any organization that advocates desegregation.

The law, enacted by a special session of the State Legislature in 1958, requires teachers to list under oath all organizations to which they have belonged in the preceding five years.

In their appeal to the Supreme Court, Negro teachers called the act "part of a legislative plan and design to maintain racial segregation in public schools despite the 14th Amendment mandate to the contrary."

B. T. Shelton, a Negro teacher in Little Rock who acknowledges that he belongs to the National Assn. for the Advancement of Colored People, was denied employment for the 1959 school term because he refused to submit a statement.

APPEAL MADE

Shelton appealed to the Supreme Court after a three-judge federal court in Arkansas upheld constitutionality of the requirement. He was joined in the appeal by the Arkansas Teachers Assn., composed of Negro teachers, and T. W. Coggs, executive secretary of the association.

In another case involving racial issues, the court ordered a new hearing for two Negroes under death sentence in Louisiana.

It directed the U. S. District Court in New Orleans to determine whether Negroes were deliberately and intentionally limited or excluded in the selection of jury panels for the trial of the two men.

The two, Clifton Alton Poret and Edgar Labat, are under death sentence for the rape of a white woman in New Orleans Nov. 12, 1950.

NO LIVE ISSUE

On the ground there was no live legal issue for its determination, the court refused 6-3 to rule on a Missouri law authorizing the governor to take possession of public utilities in event of threatened or

actual strikes.

Inferentially, Justice Potter Stewart said the Missouri Supreme Court likewise should have taken the position there was no live controversy instead of upholding key provisions of the law long after a dispute had been settled.

The litigation grew out of a strike of about 2,000 employees of the Laclede Gas Co. of St. Louis, which began July 1, 1956. On July 5, the governor took possession of the utility, but the strike continued until the State Circuit Court on July 13 issued an injunction against its continuance. The strikers returned to work the next day. The seizure ended after the Oil, Chemical and Atomic Workers International Union entered into a new agreement with the company.

Justice Hugo Black, who also spoke for Chief Justice Earl Warren and Justice William Brennan, disagreed with the majority's holding that there was no live legal issue to be decided.

HIGH COURT TO HEAR ARKANSAS TEACHERS

WASHINGTON, Jan. 25 (AP) —

The Supreme Court agreed today to hear an appeal attacking an Arkansas law requiring public school teachers to list all organizations to which they have belonged in the preceding five years.

Negroes attacking the law contend that it is aimed at the National Association for the Advancement of Colored People.

No decisions in major cases came from the court today. It will not meet again to hand down decisions until Feb. 23, a Tuesday. The court normally hands down decisions on Mondays. The fourth Monday in February is George Washington's Birthday.

The challenge to the Arkansas law requiring teachers to list the organizations to which they have belonged was initiated by B. T. Shelton, a Negro teacher in Little Rock. He was refused employment for the 1959-60 school term because he refused to submit such a statement. He appealed to the high tribunal after a special three-judge Federal Court in Arkansas

upheld the constitutionality of the requirement. Mr. Shelton, a member of the N. A. A. C. P., was joined in the appeal by the Arkansas Teachers' Association and T. W. Coggs, executive secretary of the association.

NAACP Wins Anti-Bias Rule By High Court

WASHINGTON, Feb. 23 (UPI) —

The National Association for the Advancement of Colored People (NAACP) won a Supreme Court victory Tuesday in its fight to withhold its membership lists from southern authorities.

In a unanimous decision, the court struck down as unconstitutional two tax ordinances in Little Rock and North Little Rock, Ark., requiring local NAACP groups to file financial statements and to disclose their membership rolls.

VIOLATION OF RIGHTS

The court held that the measures were an unwarranted violation of the right of NAACP members to freedom of assembly. It also agreed with the NAACP that disclosure of its roster would subject its members to harassment and possibly bodily harm.

In another racial case, the court agreed to examine a challenge to racial segregation in restaurants in southern terminals of interstate bus lines. It will hold arguments later and hand down a written opinion.

In the Little Rock case, the court set aside fines imposed on two NAACP officials — Mrs. Daisy Bates, Arkansas NAACP president, and Mrs. Birdie Williams, head of the North Little Rock branch—for failing to produce their membership roles in accordance with the ordinances.

WRITTEN OPINION

In an opinion written by Justice Potter Stewart, the court held that the women "cannot be punished for refusing to produce information which the municipalities could not constitutionally require."

Stewart said Little Rock and North Little Rock authorities "failed to demonstrate a control-

ling justification for the deterrence of free association which compulsory disclosure of the membership lists would cause."

"Like freedom of speech and a free press," he said, "the right of peaceable assembly was considered by the framers of our constitution to lie at the foundation of a government based upon the consent of an informed citizenry."

The Little Rock decision highlighted the first court session in four weeks. In other actions, the high court:

Ruled that Federal labor law permits employees of a company to engage in work slowdowns and other harassing tactics during union-management negotiations. The decision involved agents of the Prudential Life Insurance Co., Newark, N. J.

Ruled that the Benedict Coal Corp., St. Charles, Va., must pay the United Mine Workers welfare fund \$76,504, plus interest, in royalties for coal mined from March, 1950, to July, 1953. The company contended it did not have to pay because the union violated its contract.

Dismissed an appeal by Costenze P. Valenti, a delegate to the Apalachin, N. Y., gang convention who said he faced the prospect of spending the rest of his life in jail.

Six justices joined in the decision permitting work slowdowns and other harassing tactics by employees during union-management negotiations.

The NLRB had held that a union engaging in these activities is not bargaining "in good faith" as the law requires.

Supreme Court Studies Restaurant Bias Case

By LOUIS LAUTIER

WASHINGTON, D. C. — After listening to two hours of oral argument, the Supreme Court Wednesday took under advisement the appeal of Bruce Boynton, a Howard University law school graduate, from his conviction for trespass by Virginia courts because he insisted on service in a white restaurant.

At the time of the incident, Boynton was an interstate passenger traveling from Washington, D.C., to his home in Selma, Ala. He was refused service in the Trailways Bus Terminal in Richmond, Va., and arrested during a 15-minute stopover.

The outcome of the case appeared doubtful. The NAACP took a narrower position in presenting the case than did the Justice Department in the brief it filed for the United States as a friend of the court.

Argues Commerce Clause

Thurgood Marshall, director-counsel of the NAACP Legal Defense and Educational Fund, Inc., urged the court that it hold that the discrimination against Boynton violated the commerce clause of the Federal Constitution.

The commerce clause gives Congress the power to regulate commerce among the states.

The decision of June 3, 1948, in the case of Irene Morgan against the Commonwealth of Virginia was decided on the commerce clause. In that case, the court ruled that racial segregation of interstate bus passengers constituted an undue burden on commerce and struck down a Virginia statute.

One of the worries confronting Marshall was the fact that Justice Hugo Black has repeatedly protested the action of the Supreme Court in nullifying state legislation which the court held imposed an undue burden on interstate commerce.

But in the Morgan case Justice Black took the position that as long as the court remains committed to the "undue burden of commerce formula," he must make decisions under it, and acquiesced in the majority opinion in that case. The Justice department, in its brief brought into the case not only the commerce clause, the Interstate Commerce Act, and the 14th Amendment, but the 1875 Civil Rights Act as well.

Implication for Sit-Ins

If the court followed its reasoning, it could treat the Boynton case as a sit-in and hold that the arrest and conviction of Boynton on trespass charges and the intervention of the State of Virginia could be constitutionally justified only if directed at racial discrimination against Boynton.

Justice Charles E. Whittaker questioned Marshall about the ownership of the restaurant in the bus terminal.

The record showed that the restaurant was leased by Trailways to Bus Terminal Restaurant of Richmond, Inc., but did not show that the bus company owned the restaurant.

The Justice department obtained a certified copy of the records of the Interstate Commerce Commission which showed that Virginia Stage Lines, Inc., owned 50 per cent of the stock in Trailways Bus Terminal, Inc., and operates the terminal as a joint facility with the Carolina Coach Company. This record was reprinted as an appendix to the Justice department brief.

In reply to Justice Felix Frankfurter, Marshall said he did not rest the case on the assumption that the court would take judicial notice of a document filed with the ICC.

(He later told reporters that he was not in position to request the court do to so, but the court may of its own motion take notice of the record filed with the ICC.)

Against Private Lease

Marshall said it was not necessary to show that the bus com-

But in the Morgan case Justice Black took the position that as long as the court remains committed to the "undue burden of commerce formula," he must make decisions under it, and acquiesced in the majority opinion in that case. The Justice department, in its brief brought into the case not only the commerce clause, the Interstate Commerce Act, and the 14th Amendment, but the 1875 Civil Rights Act as well.

If the court followed its reasoning, it could treat the Boynton case as a sit-in and hold that the arrest and conviction of Boynton on trespass charges and the intervention of the State of Virginia could be constitutionally justified only if directed at racial discrimination against Boynton.

Justice Charles E. Whittaker questioned Marshall about the ownership of the restaurant in the bus terminal.

The record showed that the restaurant was leased by Trailways to Bus Terminal Restaurant of Richmond, Inc., but did not show that the bus company owned the restaurant.

The Justice department obtained a certified copy of the records of the Interstate Commerce Commission which showed that Virginia Stage Lines, Inc., owned 50 per cent of the stock in Trailways Bus Terminal, Inc., and operates the terminal as a joint facility with the Carolina Coach Company. This record was reprinted as an appendix to the Justice department brief.

In reply to Justice Felix Frankfurter, Marshall said he did not rest the case on the assumption that the court would take judicial notice of a document filed with the ICC.

Marshall Heads Legal Trust —

Supreme Court Hearings On Sit-Ins Are Slated

New York, N. Y. — Argument police can enforce segregation in the first litigation to reach in privately owned restaurants, the United States Supreme Court embracing the basic is open to the general public.

More than 1,600 students, white as well as Negro, have been arrested in 12 southern states," Marshall declared. "The majority of the cases are in the lower courts while a few have reached appeals in other courts."

Mr. Marshall disclosed that the amount of the fines leveled against the students far exceeds \$50,000; bond money, he said, is well over \$100,000.

NAACP Legal Defense Fund attorneys responsible for taking the Boynton case to the Supreme Court are Mr. Marshall, Constance Baker Motley and Jack Greenberg, all of New York City. Local counsel in the case are Martin A. Martin and Clarence Newsome, both of Richmond, Va.

Boydton was convicted in the Richmond Police Court and fined \$10.00. The conviction was twice appealed but upheld by the city and state courts.

Thurgood Marshall, Director-Counsel of the NAACP Legal Defense and Educational Fund said that while the Boynton case is not one which involves the world famous outbreak of student sit-in demonstrations, the decision could very well resolve the legality of most sit-in activities.

"The issue in the Boynton case is whether an interstate passenger can be convicted for refusing to leave a restaurant which is obliged to serve interstate travelers," Marshall explained.

Boydton has been supported by the United States Solicitor General in a brief filed as a friend of the court.

Mr. Marshall pointed out that the issue in most of the sit-in cases now pending before the courts is whether the

Justice Whittaker was a resident of Kansas City, Mo., from 1921 to 1957. He served as a Federal District judge at Kansas City from July 19, 1954, and of the United States Court of Appeals from June 22, 1956, until his appointment as a Supreme Court justice by President Eisenhower in 1957.

His reference to a "haberdashery" was reminiscent of the remark of ex-President Truman

Justice Whittaker was a resident of Kansas City, Mo., from 1921 to 1957. He served as a Federal District judge at Kansas City from July 19, 1954, and of the United States Court of Appeals from June 22, 1956, until his appointment as a Supreme Court justice by President Eisenhower in 1957.

that if he were running a haberdashery and a person attempted to stage a sit-down demonstration, he would throw him out.

Marshall started to say that if the restaurant in the terminal was set up to serve food to interstate passengers, when Justice Whittaker interrupted him to ask: "Set up by whom?"

"Set up by anybody," replied Marshall. If the purpose of the facility, he continued, is to facilitate the flow of interstate commerce, it cannot escape the commerce clause.

In the Boynton case, Marshall said, it was quite obvious that the restaurant was set up to keep the passengers from going across the street and getting out of hand.

"This is a Trailways bus terminal," Mr. Marshall said, "and I submit that the bus terminal restaurant is on the same basis as the restrooms, the waiting room and the ticket windows," Marshall said.

He added that if Trailways buses served sandwiches, it could not segregate Boynton while he ate.

When Boynton got on the bus in Washington, Marshall said, he began what he expected to be an uninterrupted journey without discrimination to his home in Selma, Ala.

"The bus company dumped him in this terminal," Marshall said. "He (Boynton) did not walk in there. The bus company put him there. The bus terminal is just as much interstate commerce as the bus."

Cites Adverse Ruling

Chief Justice Earl Warren asked Marshall was it not a fact that the bus company maintained control over the conduct of the restaurant for the purpose of assuring proper services would be rendered to its passengers.

Marshall replied that the lease was between the restaurant and the terminal company and it specified what could and could not be done. "It is all obviously geared around service to the interstate passenger."

Justice Potter Stewart directed Marshall's attention to the decision of the Interstate Commerce Commission in NAACP vs. the St. Louis-San Francisco Railway Co. In that case the Commission held that the maintenance of segregated lunchrooms in a railroad passenger station in Richmond by a lessee of the Richmond Terminal Company did not violate the Interstate Commerce Act.

Marshall replied that the ruling

was based on the fact that there had been a 19-year lapse in the operation of the lunchroom, while in the bus terminal the restaurant was built into the terminal during construction of the terminal.

Walter E. Rogers, a special assistant to the Virginia Attorney General, argued the case for the State of Virginia. He maintained that there was no relationship between the bus company and the restaurant and that the bus company had no control over the restaurant.

High Court Upsets Curbs On Vote Inquiry in South

By ANTHONY LEWIS

Special to The New York Times.

WASHINGTON, June 20—The Supreme Court cleared the way today for more hearings by the Civil Rights Commission on Negroes' voting rights in the South. The court held that the commission could subpoena voting registrars and compel them to testify without giving them the names of Negroes who had filed complaints against them. The vote was 8 to 0.

For almost a year, since last July 12, the commission had been barred by lower court injunctions from holding any hearings in western Louisiana unless it identified all the informants. The commission called off all voting hearings pending a Supreme Court review.

A Busy Day in Court

This was a busy day for the Supreme Court. It disposed of eighteen argued cases, leaving sixteen to go before it can adjourn for the summer. The court said it would adjourn next Monday unless otherwise ordered.

Chief Justice Earl Warren spoke for the majority in the civil rights commission case. Joining his opinion were Justices Tom C. Clark, John Marshall Harlan, William J. Brennan Jr., Charles E. Whittaker and Potter Stewart.

Justice Felix Frankfurter wrote a concurring opinion. Justice Harlan, joined by Justice Clark, added a word of their own to the Chief Justice's views in a brief concurrence. The dissent was by Justice William O. Douglas, who was joined by Justice Hugo Black. They contended that persons subpoenaed by the commission would be denied the full disclosure to witnesses, and the due process of law guaranteed by the Fifth Amendment unless notified of complainants' names.

Hearing Set in Shreveport

The disputed hearing was scheduled to take place in Shreveport, La., on July 13, 1959. The commission had

confrontation of witnesses. "The investigative process could be completely disrupted if investigative hearings were transformed into trial-like proceedings," he wrote.

The Chief Justice mentioned several kinds of investigative bodies that have never given witnesses the right to know and cross-examine complainants against them. Among these were Congressional committees, administrative agencies such as the Securities and Exchange Commission and grand juries.

Likeness to a Trial Denied

The massive opinion—sixty-five pages including appendix—concluded that the Civil Rights Commission was in fact making a general investigation of the racial problem, not trying any particular individual and finding him guilty of anything.

The main case relied on by the lower court was last June's Supreme Court Decision that neither Congress nor the President had authorized an industrial security program without confrontation. Chief Justice Warren said that the present case differed constitutionally because a security proceeding was "certainly of a judicial nature," determining whether a man would be given a clearance that amounted to a license to work.

Justice Douglas started by saying that the right to vote was of course essential. But he warned against "the temptations of many men of goodwill to cut corners, take short cuts, and reach the desired end regardless of the means."

The dissent said that "never before" had a Federal executive agency attempted to force a protesting man through a hearing "to determine whether he has violated a federal law."

Objects to Majority View

Justice Douglas objected particularly to the majority's concept of due process as a changing standard. He termed this a "chameleon-like" and "elastic" standard set by the lower judges' "personal preference."

This "notion of due process," he went on, "makes it a tool of the activists who respond to their own visceral reactions in deciding what is fair, decent or reasonable."

Justice Frankfurter's concurrence rested in part on two recent cases on which he relied upon by the Chief Justice, who had dissented in both.

The court in those cases upheld the right of a state fire

marshal to compel testimony from witnesses even though he might later charge them with perjury, and the right of an ambulatory-chasing inquiry to compel testimony from lawyers.

The proposed investigation of the Commission on Civil Rights is much less likely to result in prosecution of witnesses before it," Justice Frankfurter said, than were these earlier decisions.

The Deputy Attorney General, Lawrence E. Walsh, argued the case for the commission. Representing the Louisiana parties were W. M. Shaw of Homer, La., and the state's Attorney General, Jack P. F. Gremillion.

ARBITRATOR ROLE UPHELD BY COURT

High Tribunal, in 3 Rulings Votes to Curb Interference From Federal Bench

Special to The New York Times.

WASHINGTON, June 20—In three important labor decisions today the Supreme Court laid down the policy that arbitrators should be able to do their work with little or no interference from the Federal courts.

At issue were labor contracts providing for arbitration of grievances. More than 90 per cent of all labor contracts in this country now include such provisions for arbitration, most of them compulsory.

Three years ago the Supreme Court held that any labor contract involving interstate commerce could be brought into Federal court for enforcement of an arbitration clause. Thus today's decisions should have broad significance for labor-management relations.

Two broad principles laid down by the court were:

1. Federal courts may refuse to compel arbitration of a grievance only on the "positive assurance" that the contract "explicitly" exempts the matter from arbitration and is "not susceptible to an interpretation that covers the dispute."

2. An arbitrator's award based

on his construction of the contract must be enforced by the courts no matter whether they agree with his construction or not.

The vote was 8 to 0 in the first of the three cases, 7 to 1 in the other two. Justice Hugo Black took no part in the decisions.

Justice William O. Douglas wrote the majority opinion. Justice Felix Frankfurter concurred in the result. Justice William J. Brennan Jr., joined by Justice John Marshall Harlan, subscribed to Justice Douglas' opinion but also wrote a concurrence that was endorsed by Justice Frankfurter.

Justice Charles E. Whittaker concurred in the result of the first case and dissented in the other two.

The United Steelworkers of America was the union involved in all three cases. The first dispute was with the Aemrican Manufacturing Company of Chattanooga, Tenn.

The bargaining agreement provision at issue was the standard arbitration clause, calling for arbitration of all disputes between labor and management "as to the meaning, interpretation and application of the provisions of this agreement."

Seniority Clause Cited

An employee, James B. Sparks, left his work because of an injury and received compensation for what was called permanent partial disability. He then sought his job back under a contract clause requiring employment on the basis of seniority "where ability and efficiency are equal."

When management refused to rehire him, the union demanded arbitration. The company refused, and the union asked the Federal courts to compel arbitration. It lost in the Sixth Circuit Court of Appeals, which found the grievance not subject to arbitration because it was "frivolous" and "patently baseless."

Justice Douglas said the lower court had gone beyond its function by looking into the merits of the grievance.

"The agreement is to submit all grievances to arbitration of settling labor disputes by arbitration would be undermined if courts had the final say on the merits of the awards. It was the arbitrator's construction which was bargained for; and so far as the arbitrator's decision concerns construc-

aware."

The contract in the next case, with the Warrior and Gulf Navigation Company, excluded from arbitration "matters which are strictly a function of management."

Complaint by Union

The issue was the effect of this clause on a union complaint against contracting out to other firms of maintenance work at the company's Chicasaw, Ala., terminal. The Fifth Circuit held that such contracting out was strictly a management matter, not subject to arbitration under the contract.

Justice Douglas said the exception written into the arbitration clause was a vague one that should be limited by the courts to matters clearly agreed upon by management and labor as solely within management's prerogative.

"An order to arbitrate the particular grievance," Justice Douglas said, "should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the asserted dispute. Doubts should be resolved in favor of coverage."

"In the absence of any express provision excluding a particular grievance from arbitration, we think only the most forceful evidence of a purpose to exclude the claim from arbitration can prevail."

In the third case an arbitrator ordered some dismissed employees of the Enterprise Wheel & Car Corporation of Huntington, W. Va., reinstated with back pay. Because the union contract had run out before the arbitrator made his award, the Fourth Circuit set aside the order for reinstatement and allowed back pay only to the date the contract ended.

Ambiguity Is Seen

Justice Douglas said the arbitrator's decision was "ambiguous" as to whether it was an interpretation of the contract. But it may well have been, he said, and the courts therefore should not overturn it.

"The refusal of courts to review the merits of an arbitration award is the proper approach under collective bargaining agreements," Justice Douglas said. "The Federal policy of settling labor disputes by arbitration would be undermined if courts had the final say on the merits of the awards."

"It was the arbitrator's construction which was bargained for; and so far as the arbitrator's decision concerns construc-

tion of the contract, the courts have no business overruling him because their interpretation of the contract is different from his."

The importance of the three decisions for labor relations is the greater because they serve to make the Federal courts much more hospitable to arbitration than many state courts.

Such major state court systems as those of New York and Pennsylvania have given judges much greater control over what must go to arbitration and over arbitrators' awards. Most unions will now be free to take their cases instead to Federal courts.

David E. Feller of Washington argued the first two cases for the steelworkers and assisted Elliot Bredhoff of Washington in the third. Arguing for the three companies, respectively, were John S. Carriger of Chattanooga, Samuel Lang of New Orleans and William C. Beatty of Huntington.

CIVIL RIGHTS

Held, 7 to 2, that the Constitution does not require the Civil Rights Commission to disclose the names of Negroes complaining about denial of their voting rights before subpoenaing registrars to a hearing (Nos. 629-30, Hannah v. Larche & Slawson).

Took on for review a second challenge to an Arkansas law requiring teachers to disclose all their affiliations during the last five years (No. 917, Carr v. Young).

Rights Roadblocks Removed By Court

WASHINGTON (AP) — The Supreme Court Monday blasted the investigative nature of the commission's proceedings, the burden placed upon those proceedings, and the traditional procedure of investigative agencies in general. "leads us to the conclusion that the commission's rules of procedure comport with the requirements of due process."

The court's 7-2 ruling put the Justice William O. Douglas wrote a dissenting opinion in which Justice Hugo L. Black concurred.

Douglas took the view that "important as these civil rights are, it will not do to sacrifice other civil rights in order to protect them."

These had forced the commission to call off hearings in Shreveport, La., and to mark time with other investigations.

In an opinion by Chief Justice Earl Warren, the Supreme Court specifically upheld commission rules which provide the identity of persons making complaints may not be disclosed, and that those summoned to testify, including persons against whom complaints had been made, could not cross-examine the complainants.

Both the lower court rulings involved held, in essence, that the commission could not deny voting registrars or private citizens involved in complaints the right to confront their accusers and cross examine them without specific Congressional authorization.

One of the decisions was given last July by Chief Judge Ben. C. Dawkins in a suit by private citizens to halt the Shreveport hearings. Last October, a three-judge district court, of which he was a member, made a similar ruling in a case involving 17 voter registrars in several Louisiana parishes.

In disagreeing with the lower court, Warren said Congress authorized the commission to adopt the procedure in question.

Warren said the specific Constitutional question is whether persons whose conduct is under investigation by a government agency are entitled, by virtue of the due process clause of the Fifth Amendment, to know the specific causes that are being investigated as well as the identity of the complainants and to have the right to cross examine those witnesses.

He wrote that the purely inves-

Supreme Court Backs Hearing On Vote Rights

By Herald Wire Services

WASHINGTON — The Supreme Court Monday refused to reconsider a June 20 decision that cleared the way for civil rights commission hearings on Negro voting rights in the South.

The tribunal's decision upheld commission rules that prevent voter registrars from cross-examining their accusers at such hearings. The decision also overturned lower court injunctions that blocked scheduled hearings in Shreveport, La.

Attorney General Jack P. F. carried in the Saturday Evening Post.

titions asking reconsideration said he could not believe that the court seriously considered the full import of its decisions, or of its "words so strong, yet so wrong."

In other actions Monday the court:

REFUSED to reconsider its May 31 ruling that limited the offshore boundaries of Mississippi, Louisiana and Alabama to three statute miles.

The plea for reconsideration was rejected in a brief order without explanation.

Three three Gulf Coast states maintained the three-mile limitation was unfair. They noted that Florida and Texas won a boundary line extending three leagues — 10½ statute miles — into the gulf.

AGREED to decide whether a Wilmington, Del., restaurant leasing property from a local government agency must serve Negroes. The suit was brought by William H. Burton, a Negro. He claimed he was refused service in a coffee shop at a public garage operated by the Wilmington Parking Authority.

REFUSED to review a \$10,000 damage award to Gen. Harry H. Vaughn, former military aide to ex-President Harry S. Truman. A lower court awarded the judgment against Curtis Publishing Co., on Vaughn's complaint about the

DISMISSED the appeal of Atlanta Newspapers, Inc., from a Georgia judge's ban against picture-taking in or around the courthouse in which he was hearing a case.

AFFIRMED the dismissal of charges that five trucking companies illegally loaned \$200,000 to former Teamster President Dave Beck. The U.S. Justice Department had brought the charges under the Taft-Hartley Labor Act.

DISMISSED with the consent of all parties, a suit by Scientist Linus Pauling to halt fallout-producing nuclear tests by the United States.

12d 1960

SUPREME COURT

EDUCATION

Court Rejects Racial Petitions

New Orleans, Houston Boards
Pledge First-Grade Integration

From Wire Dispatches

Washington, Sept. 1.—The Supreme Court refused Thursday to halt scheduled racial integration of first-grade classes in New Orleans and Houston. School boards of both cities promptly said they would obey the ruling.

The court, acting on three system August 17. racial-integration cases, also declined to interfere with a lower-court order directing the admission of at least 22 Negro students into the Wilmington, Del., schools at every grade level this month.

Upholds Delay Order

In the Louisiana and Texas cases, the high court struck down petitions filed Thursday morning by attorneys for the State of Louisiana and the Houston Independent School District.

Both petitions sought to block integration of the first-grade classes. The court did uphold one lower-court order postponing the start of New Orleans integration from September 6 until November 14.

Orleans Parish School Board Chairman Lloyd Rittiner said the board will be able to work out some kind of plan for integration on November 14.

Pleased At Decision

Rittiner was pleased at the court's decision, which was confirmation of a 65-day-old lower-court ruling ordering school integration.

Federal District Judge J. Skelly Wright, who had ordered the New Orleans first-grade integrated with the beginning of the next school term, Tuesday granted the School Board a delay until November 14.

Wright acted on the plea of the School Board that it was impossible to implement his May 16 desegregation order after Governor Jimmie Davis seized control of the school

its rulings also would have the effect of permitting 22 Negro students—the same ones who originally tried to enter the previously all-white Wilmington school system—to attend classes with white students this fall.

Wilmington schools integrated their first-grade classes last year under a "staircase" plan to end racially separate schools gradually.

This approach was rejected by the Third Circuit Court of Appeals in its order directing a speed-up toward full integration.

Eight members of the nine-man court disposed of the petitions a few hours after they were filed Thursday morning. Justice William O. Douglas participated in the decision by telephone from his home state of Washington.

Ordered Hands Off

A three-judge Federal Court last Saturday returned control of the New Orleans schools to the School Board and ordered the Governor and Attorney General Jack Gremillion to keep hands off.

Davis, through Gremillion, asked the Supreme Court to

stay the order of the three-judge court. The high court refused Thursday to do this.

In Houston, the court's decision was accepted "under protest and duress" by Dr. Henry

A. Petersen, chairman of the City's School Board.

He said, however, that Houston's public schools will be integrated next week as scheduled. Seven Negroes have tried to register in previously all-white first-grade classes.

Connally Issues Order

The Houston School Board is under order to integrate first-grade classes when school opens Wednesday.

Federal District Judge Ben C. Connally issued the Houston order. The school district had asked the Supreme Court to hold up its effectiveness pending the outcome of an appeal next Tuesday to the United States Fifth Circuit Court of Appeals in New Orleans. It was this plea that the Supreme Court rejected.

The justices refused to set aside an order directing the Wilmington, Del., School Board to present a plan for complete integration within 30 days. The plan would go into effect when schools open in the fall of 1961.

Three Integration Appeals Scheduled

Texas, Louisiana, Delaware

Cases Before Supreme Court

By THE ASSOCIATED PRESS

Three requests to halt or slow down public school integration were due to come before the U. S. Supreme Court today.

The Houston school board pinned its last hopes on the high court after Texas Gov. Prince Daniel refused to intervene in a federal court order integrating the first grade next Wednesday.

Louisiana Gov. Jimmie Davis seeks to regain control of New Orleans schools, ordered to integrate first grade Nov. 14. A three-judge federal court told Davis to keep hands off after he took over the schools under a state law in an effort to forestall integration. Negro attorneys will seek to have the date speeded up to Sept. 8.

In the third case, Delaware is protesting an order to speed up the state's grade-a-year integration plan. The speedup, ordered by a lower federal court would integrate all grades by next fall.

Eight schools in Knoxville, Tenn., opened today with first grades integrated. Supt. Thomas N Johnston reported no trouble when 28 Negroes enrolled in the formerly all-white schools Wednesday.

Dollarway school in Pine Bluff, Ark., has one 6-year-old Negro girl registered for first-grade classes beginning next Tuesday. One Negro student each is assigned to two North Miami Beach, Fla., schools, but the Date County School Board turned down results to assign six more Negro children to white schools.

In Houston, the nation's largest segregated school system, three Negro children were refused enrollment in white schools despite a federal court's integration or-

der. The Negroes were turned down under a School Board policy requiring all pupils from one family to attend the same school. Parents of the three applicants have other children in Negro schools.

NEW YORK PROBLEM

New York City's Board of Education announced a new policy aimed at breaking up racial segregation patterns in the schools. Pupils entering junior and senior high schools with a heavy concentration of Negro and Puerto Rican students will be given a chance to transfer to other schools with predominantly white enrollments.

Catholic spokesmen in New Orleans said parochial schools will not be integrated until public schools are. The chancery of the archdiocese of New Orleans said the church schools, with 46,000 pupils, will go along with the public schools in integrating first grades Nov. 14 unless federal court action changes the situation before then. There are about 91,000 students in the city's public schools.

Nation-Wide Integration Big Issue as Fall Semester Starts Throughout Southern States

Black Dispatch
Blackmail City, Okla.
Nov. 9-9-60
Last Week Supreme Court Refused to Stop Integration Schedule in New Orleans and Houston

Many Students Permitted Transfers

ATLANTA.—(ANP)—From New York to New Orleans, the implementation of the six-year-old Supreme Court order to integrate segregated schools went forward last week at snail's pace in the face of stubborn southern resistance.

Up north in New York City where there are no segregated schools by law, the school board was striving to perfect integration which has been ed in the elementary schools in September, 1961.

Down South in New Orleans where the people are mixed but the schools aren't, the Supreme Court, in effect, approved a two-month delay for the beginning of integration.

And in North Carolina, American Indians were using sit-down techniques used successfully by Negroes, to gain admittance to a white school.

Hero's Integration Roundup

Here is a roundup of integration developments during the week:

WASHINGTON—The Supreme Court last week refused to stop the scheduled integration of public school systems in New Orleans and Houston, Texas.

The action cleared the way for the integration of the first grade in the two cities beginning this fall.

At the same time, the Supreme Court backed a district court order, issued earlier which postponed the start of integrated classes from Sept. 6 until Nov. 14 in New Orleans.

NEW YORK.—The New York City Board of Education has made a major departure from its previous school integration policies.

Pupils "Permitted to Transfer"

The board announced that pupils in 21 largely segregated junior high schools in Manhattan, the Bronx, Brooklyn and Queens will be permitted to transfer next month to other schools where there is a better ethnic balance and where space is available.

A similar policy will be institut-

ed in the elementary schools in September, 1961. Dr. John J. Theobald, superintendent of schools, said the new policy would apply to all students, regardless of race, whose parents requested the transfers. This meant that white students, as well as the Negro and Puerto Rican pupils the policy change is intended to help, would be free to transfer elsewhere.

DUNN, N. C.—Seven Indian children showed up at the town's all-white high school and staged a classroom sit-in. The students have been denied admission to the all-white school and have protested a daily 70-mile round trip to segregated schools in the area.

The father of one of the Indian students and the brother of another were arrested at the scene. They were released under \$100 bonds.

KNOXVILLE. — No Negroes registered in Knox county white schools last week as the school board's sudden move to desegregate the first grade caught them by surprise.

Miss Mildred Doyle, county school superintendent, said if any attempt to register later on, their cases "will be dealt with at that time."

Twelve Negro students in higher grades attempted to register at a suburban white school in the Bearden community, but were refused.

The Knox county desegregation decision was the first to be taken in Tennessee without the threat of a lawsuit, except for the fed-

erally-operated Oak Ridge schools. 157 in Nashville

One hundred and fifty-seven Negro children enrolled in 10 predominantly white schools last week as Nashville began the fourth year of its grade-a-year desegregation plan.

School officials said the figure, nearly four times as large as last year, may grow larger as late registrations come in.

PHILADELPHIA.—The United States third Circuit Court of Appeals stood last week on its decision of last month requiring faster integration of Delaware's public schools.

ST. LOUIS.—The 8th federal Circuit Court of Appeals held last week that the rural Dollarway school district has not made a reasonable start toward desegregation of its schools.

The court found the school district, just outside Pine Bluff, Ark., has applied the Arkansas pupil assignment law illegally.

"Little Rock, Of Course"

LITTLE ROCK. — The Little Rock school district last week filed a \$4,119.34 lawsuit against E. A. Lauderdale sr., John Taylor Coggins and Samuel Graydon Beavers for alleged damages to the school administration building in the September 7, 1959 dynamiting of the building.

The suit said the three defendants conspired to dynamite the buildings and that Lauderdale furnished the dynamite to J. D. Sims who actually set off the explosion.

DARLINGTON, S. C. — Four young Negroes bearing anti-segregation placards were arrested as schools opened last week on their traditional segregated pattern but with indications that an integration attempt might be made.

Rights Probers Get Green Light From High Court

Montgomery Advertiser
Montgomery, Ala.

Ruling OKs Resumption Of Hearings

WASHINGTON (AP) — The Supreme Court Monday blasted aside roadblocks which have stymied the Civil Rights Commission in its investigation of complaints of voting discrimination against Negroes in the South.

The court's 7-2 ruling put the commission in a position to resume hearings on such complaints, whether against voting registrars or private citizens.

Overtaken were two injunctions issued in U.S. District Court for western Louisiana.

These had forced the commission to call off hearings in Shreveport, La., and to mark time with other investigations.

UNDISCLOSED IDENTITY

In an opinion by Chief Justice Earl Warren, the Supreme Court specifically upheld commission rules which provide the identity of persons making complaints may not be disclosed, and that those summoned to testify, including persons against whom complaints had been made, could not cross-examine the complainants.

Both the lower court rulings involved held, in essence, that the commission could not deny voting registrars or private citi-

zens involved in complaints the right to confront their accusers and cross examine them without specific Congressional authorization.

One of the decisions was given last July by Chief Judge Ben. C. Dawkins in a suit by private citizens to halt the Shreveport hearings. Last October, a three-judge district court, of which he was a member, made a similar ruling in a case involving 17 voter registrars in several Louisiana parishes.

In disagreeing with the lower court, Warren said Congress authorized the commission to adopt the procedure in question.

NO DUE PROCESS

Warren said the specific Constitutional question is whether persons whose conduct is under investigation by a government agency are entitled, by virtue of the due process clause of the Fifth Amendment, to know the specific causes that are being investigated as well as the identity of the complainants and to have the right to cross examine those witnesses.

He wrote that the purely investigative nature of the commission's proceedings, the burden that the claimed rights would place upon those proceedings, and the traditional procedure of investigative agencies in general "leads us to the conclusion that the commission's rules of procedure comport with the requirements of due process."

Justice William O. Douglas wrote a dissenting opinion in which Justice Hugo L. Black concurred.

Douglas took the view that "important as these civil rights are, it will not do to sacrifice other civil rights in order to protect them."

Sen. Strom Thurman (D-SC) issued a statement saying the court's decision points up prejudice against the Southern white people. Thurmond said:

"It appears that the majority of the members of the Supreme Court are willing to grant due process of law to any American except the white people of the South."

"This case without question points up the court's base prejudice against the white people of the South," he added.

In The Nation The Court's Inner Conflict Over Due Process

By ARTHUR KROCK

WASHINGTON, June 23—In effect, the Supreme Court's decision this week upholding the rules of procedure of the Federal Commission on Civil Rights is that, though the end product could be a public verdict of infamous conduct against a citizen called before the commission on anonymous charges, the rules do not violate the "due process" guarantee of the Fifth Amendment. Thus the Court equated the investigatory procedures of the commission with those of a grand jury.

The Court justified this operating equality of an agency created by Congress with a law enforcement agency established in the Constitution by pointing out that grand juries are accusatory bodies while the commission's function is to supply Congress with informatory material for subsequent legislation. It assumed that, unlike grand juries, whose inquiries can lead to criminal indictments of individuals that damage their reputations, the commission will continue to make generalized reports to Congress.

A Disturbing Aspect

This assumption was one of the aspects of the majority ruling that disturbed Justice Douglas, whom Justice Black joined in vigorous dissent. The agency procedure, wrote Justice Douglas, "fashioned to protect witnesses as such rather than a prospective defendant, permits the commission to exclude the accused entirely from the hearing and deny him the opportunity even to observe the testimony of his accusers. And even if the commission were inclined in a particular case to protect the accused from the opprobrium likely to flow from the testimony of individual witness against him by holding secret sessions, this would be little comfort after the commission's findings, based on such untested evidence, were publicized across the nation."

The Lower Court Ruling

The Court's decision quashed a lower court injunction against a commission hearing of vote registrars and private citizens accused in sworn complaints of depriving qualified Negroes of their voting rights in Louisiana. The lower court held that the rules, described above by Justice Douglas, were not authorized by Congress. Chief Justice Warren, for the majority, found ample evidence in the legislative history that Congress intended to give the commission this specific authority. That brought him to a determination whether its procedure is consistent with the "due process" clause of the Fifth Amendment.

"When governmental action," he wrote, "does not partake of an adjudication, as for example when a general fact-finding investigation is being conducted, it is not necessary that the full panoply of judicial procedures be used. * * * The particular rights [of confrontation and

cross-examination] claimed, [here] need not be conferred on those appearing before purely investigative agencies, of which the Commission on Civil Rights is one. * * * This type of proceeding would make a shambles of the investigation and stifle the agency in its gathering of facts."

'Liberals' Afield

The dissenters agreed that this reasoning served a fundamental right, that of voting, "which stands [in the Constitution] beyond the reach of Government." But, though their legal philosophy is vigorously, and at times, hotly, "liberal," they opposed the ruling on a ground avoided by many other "liberals" when it gets in the way of some reform they are advocating. "Important as these civil rights [of voting] are," wrote Justice Douglas, "it will not do to sacrifice other civil rights in order to protect them." This argument, by the way, was unsuccessfully employed in the school racial integration cases by lawyers who held that the constitutional rights of states over education would be sacrificed if the Court found compulsory segregation unconstitutional.

When the hearings of the commission, the dissenters asserted, involve charges of criminality, as in these cases, those called before it have a basic right "to know what they are being tried for, to confront their accusers and cross-examine them. * * * The sifting of criminal charges against people is for the grand jury or for judges or magistrates, and for them alone under the Constitution."

Maybe this interpretation would have had a better reception at Philadelphia in 1787 than from the Supreme Court majority in 1960.

Court Clears Way For Vote-Rights Probe

The Courier Journal
**J. S. Group
 Can Resume
 In Louisiana**
*Shreveport, La.
 June 6-20-60*

By The Associated Press

Washington, June 20.—The Supreme Court Monday blasted aside roadblocks that have stymied the Civil Rights Commission in its investigation of complaints of voting discrimination against Negroes in the South.

The court's 7-to-2 ruling put the commission in a position to resume hearings on such complaints, whether against voting registrars or private citizens.

Overtaken were two injunctions issued in Federal District Court for western Louisiana.

Hearings Were Halted

These had forced the commission to call off hearings in Shreveport, La., and to mark time with other investigations.

In an opinion by Chief Justice Earl Warren, the Supreme Court specifically upheld commission rules which provide that the identity of persons making complaints may not be disclosed and that those summoned to testify, including persons against whom complaints had been made, could not cross-examine the complainants.

Both the lower-court rulings involved held, in essence, that the commission could not deny voting registrars or private citizens involved in complaints the right to confront their accusers and cross-examine them without specific Congressional authorization.

Court Ruled Last July

One of the decisions was given last July by Chief Judge Ben. C. Dawkins of the Western District of Louisiana in a suit brought by private citizens to halt the Shreveport hearings. Last October a three-judge district court, of which he was a member, made a similar ruling in a case involving 17 voter registrars in several Louisiana parishes.

In disagreeing with the lower court, Warren said Congress

authorized the commission to adopt the procedure in question.

Warren said the specific constitutional question is whether persons whose conduct is under investigation by a government agency are entitled, by virtue of the due-process clause of the Fifth Amendment, to know the specific cause that are being investigated as well as the identity of the complainants and to have the right to cross-examine those witnesses.

'Due Process Illusive'

He said "due process" is an illusive concept, its exact boundaries undefinable, and its content varying according to specific contexts.

He wrote that what he described as the purely investigative nature of the commission's proceedings, the burden that the claimed rights would place upon those proceedings, and the traditional procedure of investigative agencies in general "leads us to the conclusion that the commission's rule of procedure comport with the requirements of due process."

Reds Can Lose Benefits

Judge William O. Douglas wrote a dissenting opinion in which Justice Hugo L. Black concurred. Douglas wrote:

"Worthy as I think the ends are which the Civil Rights Commission advances in these cases I think the particular means used are unconstitutional."

In another major decision Monday, the court divided 5 to 4, in holding that aliens deported because of Communist Party membership may be stripped of their Social Security benefits.

Rushing toward adjournment of its present term next Monday, the court called for reargument next fall of a case involving the union shop in the railroad industry. The specific issue is whether it is legal to require a worker to join a union which uses part of his dues to support political objectives which he opposes.

Registrars lose round—

U. S. tribunal upholds civil rights hearings

WASHINGTON, June 20—(AP)—The Supreme Court today struck down injunctions which halted U. S. Civil Rights Commission hearings in the South on Negro voting rights.

The high court's vote was 7-2, with dissents by Justices Douglas and Black. Chief Justice Warren delivered the majority decision.

The decision threw out an injunction issued by a special three-judge federal court in Shreveport, La.

The special court ruled last October that 17 registrars in several Louisiana parishes did not have to appear at a commission hearing on complaints by 67 Negroes they had been denied voting rights.

Traditional rights of the registrars were violated, the special court said, by commission rules which do not include prior information on the nature of the complaints and do not permit confrontation and cross-examination of witnesses.

THE SPECIAL COURT held that the act which created the commission was constitutional. But it said the commission's rules of procedure were not authorized by Congress.

Warren's 33-page opinion said that "the purely investigative nature of the commission's proceedings, the burden that the claimed rights would place upon those proceedings, and the traditional procedure of investigative agencies in general, leads us to conclude that the commission's rules of procedure

comport with the requirements of due process."

The special court emphasized that it was not deciding the constitutionality of the commission procedure.

"We decide only," it said, "that in a hearing such as the one envisaged here, the commission had no right to deny the accused registrars the traditional rights of confrontation and cross-examination in the absence of explicit congressional authorization to do so."

WARREN'S OPINION, however, went to the constitutional issue. He said it was whether persons whose conduct is under investigation by a governmental agency of the nature of the Civil Rights Commission are entitled, by virtue of the due process clause of the 14th Amendment, to know the specific charges under investigation, the identity of the complainants and to have the right to cross-examine these complainants and other witnesses.

Warren said that while these procedures are very desirable in some situations they are not constitutionally required in proceedings before the Civil Rights Commission.

He said the investigative process could be completely disrupted if investigative hearings were trans-

formed into trial-like proceedings, and if persons who might be indirectly affected by an investigation were given an absolute right to cross-examine every witness called to testify.

JUSTICE DOUGLAS said in a dissenting opinion in which Justice Black concurred, that "the cause which the majority opinion serves, is, on the surface, one which a person dedicated to constitutional principles could not question."

But, Douglas said, "worthy as I think the ends are which the Civil Rights Commission advances in these cases, I think the particular means used are unconstitutional."

Douglas wrote that the commission had received complaints charging Louisiana registrars with depriving persons of their voting rights by reason of color. The investigation and hearing by the commission, Douglas added, are therefore necessarily aimed at determining whether the federal constitution had been violated.

"The might and power of the federal government have no equal," Douglas wrote.

"WHEN ITS guns are leveled at a citizen on charges that he committed a federal crime, it is for me no answer to say that the only purpose is to report his activities to the president and Congress, not to turn him over to the district attorney for prosecution."

Douglas said the right to know the claims asserted against one and to contest them — to be heard — to conduct a cross examination were implicit to a full and fair hearing before an administrative agency.

Justice Frankfurter, siding with the majority, wrote a separate opinion saying the rules of procedure formulated by the commission were in line with the law enacted by Congress.

School Desegregation Attacks Diminishing, Survey Reports

The Washington Post
Washington, D.C.
For the first time since 1954, lawmakers in the Southern states have few plans for attacking the Supreme Court's desegregation ruling, according to a survey in the January issue of Southern School News.

Mon. 1-4-60
Legislative sessions are scheduled in eight Southern and border states in the first half of 1960. Southern School News correspondents report that in Kentucky, Maryland and West Virginia no bills are pending on the desegregation issue.

In Louisiana, Mississippi and South Carolina a few segregation bills are expected but there are no signs of major legislative programs on the subject.

Attempts may be made to revive Virginia's "massive resistance" but chances of such legislation are not strong, Southern School News suggests. The Georgia Legislature will consider a pupil placement plan of the Atlanta school board, drawn up in response to a Federal judge's order to produce a desegregation program. Present state law calls for closing any school told to desegregate.

The paucity of bills on the issue contrasts with past years. Southern School News reports that since the desegregation ruling in 1954, more than 230 bills and resolutions pertaining to segregation have been enacted in Southern legislatures.

INTEGRATION: ROLE OF COURTS

By ANTHONY LEWIS
Special to The New York Times.

WASHINGTON, June 11—Ever since the end of Reconstruction, when Congress abandoned the attempt to enforce Negro rights in the South by bayonet, the courts have been the real instruments of national policy on the racial question. From the earliest days it was the courts that enforced the Fourteenth Amendment's guarantee of equality in such areas as voting and jury service.

In the last five years the Federal courts have carried an especially heavy responsibility. In effect they have been given the job of translating into reality a gradually forming American ideal of a society without official discrimination on account of race.

In 1955 the Supreme Court gave the lower Federal courts the duty of implementing its decision that racial segregation in public schools is unconstitutional. The Chief Justice's opinion said district courts around the country were in the best position, because of their "proximity to local conditions," to work out desegregation "with all deliberate speed."

Great Disparities

How effectively have the courts performed in their civil rights assignment? Recent events have illustrated how great the disparities have been among different judges and different courts.

For those desiring an orderly, prompt end to school segregation there can hardly have been a more frustrating experience than what has happened in Dallas, Tex., over the last five years. The responsibility plainly rests in good part on two Federal district judges there.

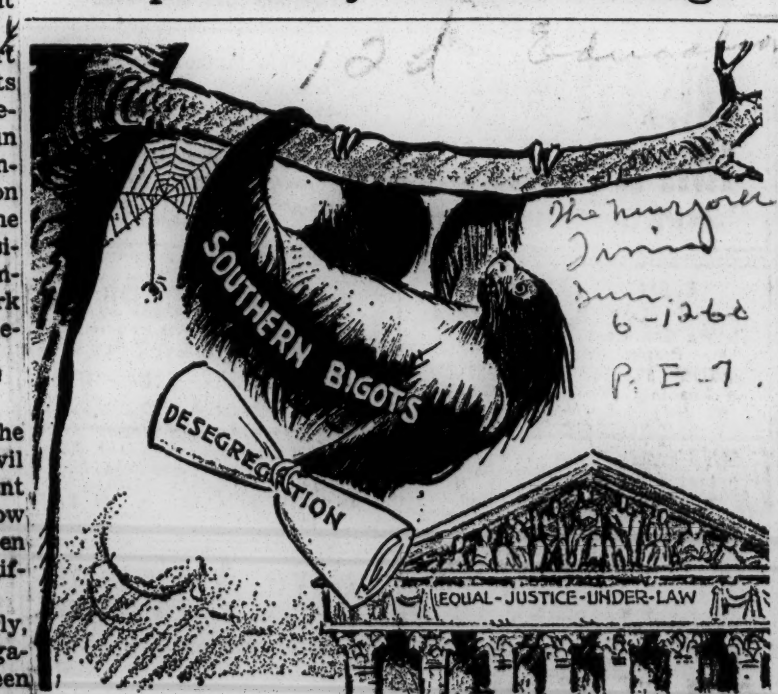
A suit to end school segregation in Dallas was filed by attorneys of the National Association for the Advancement of Colored People in 1955. Today

after five years and round after round of litigation, the goal still looks distant.

Federal District Judge William H. Atwell, then 86 years old, dismissed the suit in 1955. The Court of Appeals for the Fifth Circuit reversed him. On remand, Judge Atwell said it would be a "civil wrong" to order admission of Negroes to overcrowded white schools and dismissed the case again so that the school board could have "ample time to work out this problem."

The Fifth Circuit again reversed, with instructions to enter a decree requiring desegregation "with all deliberate speed."

They Have Been the Prime Movers Despite Many Uneven Rulings



"With all deliberate speed."

gation "with all deliberate speed."

Meantime, the Texas Legislature had passed a law requiring localities to hold a referendum on school desegregation or lose their state aid. Although the law appeared on its face to be unconstitutional, both state and

Federal courts declined to pass on it before some city's aid was actually cut off, and for two years of uncertainty school integration came to a stop in Texas.

Judge's Position

This year District Judge T. Whitfield Davidson, 83 years old, presided as the Dallas school board finally came forward with a desegregation plan. Two days before the hearing Judge Davidson spoke to a local club about the racial problem. He warned about "carpetbaggers from Moscow" and said: "No country in history has ever

jected the board plan.

Instead, he directed the board to draft a plan to set aside a few schools for those families who wanted integration, leaving all others segregated. The board did so, and last week Judge Davidson ordered this scheme into effect in September, 1961. Another appeal is likely.

A fair appraisal of the Dallas episode would seem to be that in an area outside the core of bitter resistance to integration, judicial foot-dragging and Quixoticism have created public uncertainty and uneasiness and encouraged resistance.

There are a few other examples of what at least the advocates of integration consider judicial obstruction. Judge Harry J. Lemley ordered Little Rock's desegregation program suspended because of violent resistance but was reversed by the Eighth Circuit and the Supreme Court. Judge Sterling Hutcheson gave Prince Edward County, Va., ten years to plan desegregation, but the Fourth Circuit directed an immediate start. (The county abandoned its public school system rather than desegregate.)

Some Judges Firm

On the other hand, many Federal judges have stood up firmly against strong local feelings. Last month Federal District Judge J. Skelly Wright of New Orleans put into effect a school integration plan of his own when the school board did not come forward with one. He ordered integration a grade a year beginning in September.

In Atlanta, District Judge Frank A. Hooper has worked skillfully to avoid the closing of schools under a Georgia law.

With the exception of the Little Rock case, the lower Federal courts have handled the school problem without advice or supervision from the Supreme Court. Advocates of desegregation would say that progress has been too slow, that even

where all-out resistance has ended only a token handful of Negroes is in white schools. But all in all the Federal courts have moved steadily if slowly toward compliance, and they have held high the banner of respect for law.

Federal district judges come from the communities where they sit and, as a rule, would share local feelings. But it remains true, even on the inflamed racial issue, that a man sees his obligations differently when he becomes a part of the Federal judiciary.

State judges, too, are sworn to support the Constitution of the United States. But virtually all observers agree that on the average they are much more responsive to local pressures, perhaps in part because they are likely to be elected judges and in part because they are in a local rather than a Federal tradition.

Issue in Alabama

Just this week the Justice Department made plans to counter a sweeping injunction issued by an Alabama judge, Walter B. Jones, barring the department from examining any voting records in the state under a provision of the 1957 Civil Rights Act. The first step by the department will be to remove the case to Federal court and get it away from Judge Jones.

It was Judge Jones who in 1956 "temporarily" restrained the N. A. A. C. P. from doing business in Alabama. Just as in the present voting case, he acted at the request of the State Attorney General without giving the defendants a hearing.

Four years later that "temporary" injunction against the N. A. A. C. P. is still in effect. The United States Supreme Court has twice reversed the Alabama courts in the case. But the mandate in the second reversal has been before the Alabama Supreme Court for a year now with no action of any kind having been taken.

The record of the lower Federal courts in enforcing Negro rights is an uneven one. But given the many difficulties and pressures, the performance of the whole must be termed adequate.

HIGH COURT RULING:

School Mixing Delay Rejected

WASHINGTON (AP)—The U.S. Supreme Court Thursday rejected pleas for delay in public school desegregation in Houston, Tex. and New Orleans, La.

At the same time the court refused to hold up effectiveness of a lower court order requiring faster integration of Delaware's public schools.

It also denied a plea by attorneys for the National Assn. for the Advancement of Colored People in the New Orleans case that integration begin there with the start of the school year on Sept. 8, 1961.

All nine of the court's justices participated in the actions, which were taken behind the closed doors of its conference room.

Justice William O. Douglas is on vacation, but the court announced that he participated in the action by telephone.

UNDER ORDER

The Houston School Board is under order to integrate first-grade classes when school opens Sept. 7.

U.S. Dist. Judge Ben. C. Connally issued the Houston order. The school district had asked the court to hold up its effectiveness pending the outcome of an appeal to the U.S. 5th Circuit Court of Appeals in New Orleans.

U.S. Dist. Judge J. Skelly Wright, who had ordered the New Orleans first grade integrated with the beginning of the next school term, on Tuesday granted the school board a delay until Nov. 14.

Wright acted on the plea of the school board that it was impossible to implement his May 16 desegregation order after Gov. Jimmie H. Davis seized control of the school system Aug. 17.

A three-judge federal court last Saturday returned control of the New Orleans schools to the school board and ordered the governor and Atty. Gen. Jack Gremillion to keep hands off.

Davis, through Gremillion, asked the Supreme Court to stay the order of the three-judge court.

Delaware had asked the high court to delay effectiveness, pending a formal appeal, of a July 19

Texas, Louisiana, Delaware

Three race cases to Supreme Court

Three requests to halt or slow down public school integration were before the U.S. Supreme Court today. The Houston School Board pinned its last hopes on the high court after Texas Gov. Price Daniel refused to intervene in a federal court order integrating the first grade next Wednesday.

LOUISIANA GOV. JIMMIE DAVIS seeks to regain control of New Orleans schools, ordered to integrate first grades Nov. 14. A three-judge federal court told Davis to keep hands off after he took over the schools under a state law in an effort to forestall integration. Negro attorneys will seek to have the date speeded up to Sept. 8.

In the third case, the State of Delaware is protesting an order to speed up the state's grade-a-years integration plan. The speed-up, ordered by a lower federal court, would integrate all grades by next Fall.

Eight schools in Knoxville, Tenn., opened today with first grades integrated. City Supt. Thomas N. Johnston reported no trouble when 28 Negroes enrolled in the formerly all-white schools Wednesday.

Dollarway School in Pine Bluff, Ark., has one 6-year-old Negro girl registered for first grade classes beginning next Tuesday. One Negro student each is assigned to two North Miami Beach, Fla., schools, but the Dade County School board Wednesday turned down requests to assign six more Negro children to white schools.

IN HOUSTON, the nation's largest segregated school system, three Negro children were refused enrollment in white schools despite Federal Judge Ben C. Connally's integration order. The Negroes were turned down under a school board policy requiring all pupils from one family to attend the same school. Parents of the three applicants have other children in Negro schools.

New York City's Board of Education announced a new policy aimed at breaking up racial patterns in the schools. Pupils entering junior and senior high schools with a heavy concentration of Negro and Puerto Rican students will be given a chance to transfer to other schools with

the Houston Independent School District.

The United States Fifth Circuit Court of Appeals in New Orleans Thursday night granted the Houston School Board a hearing on its appeal from Federal Judge Ben Connally's order to integrate the city's first grades next week.

Delay Is Upheld

But the Supreme Court justices, acting without comment, upheld a lower court order to postpone the start of integrated first-grade classes in New Orleans from Sept. 6 until Nov. 14.

The National Association for the Advancement of Colored People had appealed to the high court to cancel the New Orleans delay, approved earlier this week by Federal Judge J. Skelly Wright. Houston schools now are under court order to integrate first grades next week.

In a related decision, the justices refused to set aside an order directing the Wilmington, Del., School Board to present a plan for complete integration within 30 days. The plan would go into effect when schools open in the fall of 1961.

Its rulings also would have the effect of permitting 22 Negro students—the same ones who originally tried to enter the previously all-white Wilmington school system—to attend classes with white students this fall.

Wilmington schools integrated their first grade classes last year under a "staircase" plan to end racially separate schools gradually. This approach was rejected by the Third Circuit Court of Appeals in its order directing a speed-up toward full integration.

Eight members of the nine-man court disposed of the petitions a few hours after they were filed this morning. Justice William O. Douglas participated in the decision by telephone from his home state of Washington.

Control Return Asked

Louisiana had asked for return of the control over its public schools to Gov. Jimmie Davis pending further legal battles against an integration order.

Governor Davis had pledged to open the schools on a segregated basis. State attorneys said the integration plan was impractical and could lead to a breakdown of Louisiana's education system.

Houston said it would lose six million dollars a year in state aid because of a Texas law forbidding aid to integrated schools

Court Refuses Delay In Mixing New Orleans And Houston Denied Pleas To Halt Integration

WASHINGTON, Sept. 1.—The Supreme Court refused Thursday to halt scheduled integration of first grade classes this fall in the New Orleans, La., and Houston, Texas, public school systems.

It also declined to interfere with a lower court order directing the admission of at least 22 Negro students into the Wilmington, Del., school system at every grade level this month.

The high tribunal struck down petitions seeking to block desegregation in the two Southern cities. They were filed Thursday morning by attorneys for the State of Louisiana and

HIGH COURT CURBS USE OF EVIDENCE ILLEGALLY SEIZED

July 6/58/60
Holds, 5-4, U.S. Trials Can't
Accept Data That a State
Took in Unlawful Way

R.I.
VOIDS DECISION OF 1914

Frankfurter's Dissent Calls
Stewart's Majority View
'Juridical Somersault'

*Excerpts from court's ruling
and dissents, Page 20.*

By ANTHONY LEWIS

Special to The New York Times.

WASHINGTON, June 27—The Supreme Court, dividing 5 to 4, held today that Federal courts might not admit evidence seized by state officers in violation of the Constitution.

The decision overthrew a rule laid down specifically by the court in 1914 and assumed before that. This was the so-called "silver-platter doctrine." It allowed Federal prosecutors to use illegal evidence given to them "on a silver platter" by state officials.

Justice Potter Stewart wrote the majority opinion. He was joined by Chief Justice Earl Warren and Justices Hugo L. Black, William O. Douglas and William J. Brennan Jr.

The dissenters were Justices Felix Frankfurter, Tom C. Clark, John Marshall Harlan and Charles E. Whittaker.

Exclusions Favored

Justice Frankfurter would have excluded evidence from Federal courts only when state courts would have ruled out the same evidence. The three other dissenters would have held to

the silver-platter doctrine of admitting any evidence seized by a state.

The intensity of feeling in the courtroom as Justice Frankfurter delivered his dissent made evident the importance of the case. From the bench, though not in his written opinion, Justice Frankfurter termed the decision a "juridical somersault."

The decision has broad philosophical implications for Federal-state relations in the area of the criminal law. It represents at least a large exception to a recent trend of Supreme Court decisions paying great deference to the separation between the states and the Federal Government in law enforcement.

The court decided the legal issue in two cases.

The first concerned James Butler Elkins and Raymond Frederick Clark of Portland, Ore. Elkins, a one-time gambling figure, made headlines when he testified before the Senate rackets committee in 1957 that the Teamsters Union had taken over Portland's rackets.

Oregon policemen searched Clark's home on a tip that he had obscene pictures. They found no pictures, but they did find evidence—a recorder and some tapes—that he had been wiretapping.

Elkins and Clark were indicted by a state grand jury. But the state courts held that the search and seizure had been illegal, and the indictment was dismissed.

The two were then prosecuted in the Federal courts under the Federal law making wiretapping a crime. The court refused to exclude the seized tapes from evidence, and they were convicted. Elkins was given a sentence of twenty months and a \$2,000 fine, Clark six months and a \$500 fine.

Found With Narcotics

The second case was a narcotics conviction, with a twenty-year sentence, of José Torronces Rios of Los Angeles.

Rios was found by Los Angeles police with a package of narcotics. However a state prosecution ended in a directed verdict of acquittal when the court found that the narcotics had been illegally seized. A Federal prosecution followed, and the seized package was admitted as evidence.

Justice Stewart's opinion used as its starting point the landmark search-and-seizure case in the Supreme Court, the 1914 case of Weeks v. United States.

The Weeks case established a rule excluding from Federal trials any evidence seized by Federal agents in violation of the Fourth Amendment. The amendment prohibits "unreasonable searches and seizures."

But in the same case the court said that the Federal courts were not bound to exclude evidence seized by state officers, no matter how they got it.

Explains Basis of Rule

Justice Stewart said the basis of this second rule was that, in 1914, nothing in the Constitution regulated searches and seizure by state officers. The Fourth Amendment applies only to the Federal Government.

Then, in 1949, the Supreme Court decided that the provision of the Fourteenth Amendment requiring the states to assure "due process of law" applied the "core of the Fourth Amendment" to state officials.

But in the same case the court said that state courts were not bound to enforce the ban on illegal searches by excluding evidence so obtained. About half the states now exclude illegally seized evidence while the other half—including New York—do not.

Justice Stewart said the 1949 decision removed the logical basis of exception in the Weeks case for state-seized evidence. Moreover, he continued, experience counsels against continuing the Weeks exception.

The major purpose of excluding illegal evidence is that this deters policemen from making improper searches. Justice Stewart said the effectiveness of this deterrent could not be proved but the trend in the states was in that direction and was "seemingly inexorable."

Moreover, the majority opinion said, to let Federal courts use illegal state evidence was to encourage subterfuge by Federal law-enforcement officers—urging or allowing their state colleagues to conduct searches and then hand over the evidence.

Justice Stewart concluded that the Supreme Court must lay down as a court-made rule of evidence a prohibition on anything seized unconstitutionally by state officers.

He said the Federal courts must decide in each case whether the seizure had been unconstitutional. He sent the two cases at issue back to the lower courts for that decision.

Justice Frankfurter hit particularly hard in his dissent at the prospect of Federal courts passing on the constitutionality of myriad actions by state officers. He said this would impose in such cases all the fine-spun, intricate rules laid down by the Supreme Court under the Fourth Amendment for Federal seizures. From the bench he added:

"This decision will breed a great deal of litigation and obstruct the administration of criminal justice, which in this country faces sufficient difficulties."

Justice Frankfurter also disputed the significance of the 1949 decision, which he wrote. He said its very point was that state and Federal seizures must be judged by different constitutional standards, not the same.

Moreover, the dissent said, there was nothing "inexorable" about state acceptance of the rule excluding illegally seized evidence. Justice Frankfurter said he was impressed by "the obduracy of high-minded state courts" like New York's in refusing to adopt the Federal exclusionary rule.

12d 1960

SUPREME COURT

GOLF
NORTH CAROLINA

Negro Golfers Lose High Court Appeal

By CHARLOTTE G. MOULTON

WASHINGTON (UPI)—The Supreme Court ended its 1959-60 term Monday by handing down a flood of decisions including one outlawing the use in federal criminal trials of evidence obtained illegally by state police. *June 6-28-60* nan Jr., the court's so-called "liberal" wing.

Before adjourning for the summer, the court also upheld the conviction of five Greensboro, N.C., Negroes who were sentenced to 15 days in jail for trespassing on a golf course reserved for white persons only.

The court issued almost a score of written opinions to clean up its docket until October. It also handed down as many orders rejecting appeals, granting hearings to defendants, or setting the stage for oral arguments next term.

Among the rejected appeals was one from Boston textile tycoon Bernard Goldfine, one-time friend of former Presidential Assistant Sherman Adams. Goldfine now must serve a three-month jail sentence for contempt of court.

The cases the court agreed to review next term included some involving the legality of certain union hiring halls, the use of wire-tap evidence in state criminal trials, and the right of Korean war prisoners who defected to the Communists to receive back pay.

As a highlight of the final day of its eight-month term, the court set aside the 1957 federal wire-tapping conviction of James Butler (Big Jim) Elkins, well-known Portland, Ore., figure, and Raymond Frederick Clark, one of his employees.

The high court held in the 5-4 ruling that the trial court should not have permitted introduction of evidence admittedly seized illegally by state agents.

The Greensboro golf course case also was decided by a 5-4 vote, with Stewart again speaking for the majority. Dissenters were Chief Justice Earl Warren and Justices Hugo L. Black, William O. Douglas, and William J. Brennan.

DESPITE RULING

Jackson Daily News
Rights' Unit Won't High Court
Jackson, Miss. Tues. 6/21/60
Push Voter Inquiry Drops Suit

WASHINGTON (UPI)—A Civil Rights Commission spokesman saw little likelihood that Negro voting rights hearings will be pressed immediately in the South despite a Supreme Court victory.

The commission declined official comment on Monday's 7-2 court ruling, which rejected complaints by Louisiana voting registrars that the hearings denied them proper constitutional safeguards.

But a spokesman privately pointed out that considerable spadework is necessary to prepare for a hearing. He also said the six-man commission, which met last week, is not expected to hold another session until late July.

Although stalled hearings in Shreveport and in other Southern states can now go forward, the commissioners must first discuss next steps on the basis of the court's ruling.

In its far-reaching decision, the high court struck down lower court rulings that had prevented the commission from pursuing its inquiries. The opinion held that challenged hearing procedures were legal and proper under the circumstances.

The commission has been marking time since last July pending a final court settlement of the challenge to its procedures raised by Louisiana authorities.

Dissenters were Justices Hugo L. Black and William O. Douglas. They agreed with Louisiana officials who contended the commission's hearing procedures violated the rights of witnesses.

The Commercial Appeal
Arkansas Law Will Be Tested

Memphis Press
Supreme Court Agrees To Hear Challenge Of Teacher Affidavits

WASHINGTON, June 20. — Two Arkansas teachers Monday were granted a Supreme Court hearing in their challenge of a state law requiring teachers to submit affidavits listing organizations to which they belong or contribute. *6-21-60*

The teachers, in appealing to the high tribunal, said Act 10 of 1958 was intended to bring about "emasculatation" of any group favoring compliance with the Supreme Court's 1954 decision that Negroes cannot legally be barred from public schools because of race. *P. 13*

Offered To Answer

The teachers, Max Carr and Ernest Gephardt, said they submitted statements denying ever having been members of any subversive organization and offered to answer questions which authorities "might constitutionally ask."

Both were notified their non-compliance with the law made continued employment as teachers impossible.

Carr taught music at the University of Arkansas. Gephardt was a vocational printing instructor at Central High School in Little Rock.

Negro Appeals

Last Jan. 25 the high tribunal agreed to hear a similar appeal by B. T. Shelton, a Negro teacher in Little Rock. He was refused employment for the 1959-60 school term because he refused to submit the required affidavit.

Shelton's appeal was from a decision by a special three-judge federal court in Arkansas which upheld constitutionality of the

requirement.

Both appeals will be heard in the court's new term next fall.

Chicago Defender
High Court Drops Suit

Chicago, Ill. Sat. 6-25-60
On Housing

WASHINGTON — (UPI) —

The Supreme Court Monday dismissed a challenge to New Jersey's anti-discrimination law as applied to federally-insured housing. *P. 12*

The case in point involved an effort by two Negroes to move into a Levittown housing project in Burlington County, N. J.

Monday's brief order left standing a decision of last Feb. 9 by the New Jersey supreme court upholding the validity of the law. The order said the case did not present "a substantial federal question."

However, the case is still alive in New Jersey and will probably go the rounds through both courts again.

The case was appealed by Levitt and Sons, Inc., builders of the Levittown project.

12d 1960

SUPREME COURT

HOUSING- RACIAL DISCRIMINATION
NEW JERSEY

Supreme Court's Actions

Special to The New York Times.

WASHINGTON, June 13—The Supreme Court took the following actions today:

CRIMINAL LAW

By vote of 6 to 3, reversed the mail-fraud convictions of George B. Parr, Texas political leader, and others on the ground that the Government, though showing embezzlement of school funds and other state crimes, had not proved a violation of the Federal mail fraud statute (No. 391, Parr v. U. S.).

Agreed to hear the contention of Willie Lee Stewart, sentenced to death for murder in the District of Columbia, that it had been prejudicial error for the prosecutor to comment when he took the stand that Stewart had not testified in previous trials (No. 974 misc., Stewart v. U. S.).

IMMIGRATION LAW

Held, 5 to 4, that an applicant for suspension of deportation had the burden of proving that he was not a Communist and therefore ineligible for suspension, and that he did not meet that burden if he invoked the Fifth Amendment when asked about party membership (No. 139, Kimm v. Rosenberg).

NATURAL GAS

Held unanimously that the Federal Power Commission correctly construed a natural gas contract as not calling for a favored-nation price rise before June 7, 1954 (Nos. 167, Texas Gas v. Shell, and 170, F. P. C. v. Shell).

Agreed to decide whether F. P. C. acceptance of a natural-gas rate filed pursuant to a Kansas minimum gas price law foreclosed suit by the gas customer for the difference between that and the lower contract price after the Supreme Court had held the Kansas law invalid (Nos. 914, 915, 916, Pan American, Texaco and Columbian v. Superior Court of Delaware).

PROCEDURE

Held, 6 to 3, that a Federal district court might not transfer a case to a district where suit would have been barred by venue rules, even though the defendant waived objection to venue and sought the transfer (Nos. 25, Hoffman v. Blaski, and 26, Sullivan v. Behimer).

By vote of 6 to 3, directed the lower Federal courts to obtain a resolution of state law questions from the Florida courts before passing on the constitutionality of a Florida statute voiding all insurance contract provisions that limit times for suit, as applied to a contract made in Illinois (No. 349, Clay v. Sun Insurance).

RACE RELATIONS

Dismissed for want of a substantial Federal question an appeal from a New Jersey Supreme Court decision upholding that state's ban on racial discrimination in housing, as applied to F. H. A.-insured homes, one justice would have noted jurisdiction. (No. 865, Levitt and Sons v. Division).

RAILROADS

Held unanimously that when the Court of Claims suspends decision in a railroad's suit for freight payments from the Government to let the Interstate Commerce Commission pass on the reasonableness of the rates, the court must continue the suspension to permit District Court review of the I. C. C. decision (No. 451, Pennsylvania R.R. v. U. S.).

TAXATION

Held, 8 to 1, that a Cadillac given by a corporation to a business man who had supplied it with a list of customers as a friendly gesture, without expectation of reward, was taxable income to the business man, not a gift (No. 376, C. I. R. v. Duberstein).

By vote of 5 to 4 ordered further District Court findings on the taxability of a \$20,000 payment by Trinity Church in New York to its resigned controller; the minority would have reinstated the original District Court decision, reversed by the Second Circuit, that the payment was a non-taxable gift (No. 546, Stanton v. U. S.).

Affirmed, 6 to 3, a jury's finding that benefits paid by the United Automobile Workers to a striker at the Kohler plant in Wisconsin were a non-taxable gift; the court laid down no general rule of law on the taxability of strike

benefits, but five members indicated that such benefits would ordinarily be taxable (No. 55, U. S. v. Kaiser).

Held, 5 to 4, that Federal tax liens junior to defaulted mortgages on the same properties may be effectively extinguished in state proceedings to which the United States is not a party (Nos. 137, U. S. v. Brosnan, and 183, Bank of America v. U. S.).

Upheld, 8 to 0, the constitutionality of a tax law including in an insured's estate insurance proceeds receivable by beneficiaries from a policy whose premiums were paid by the insured, although he had no control over the policy at his death (No. 350, U. S. v. Manufacturers Bank).

WATER RIGHTS

Held unanimously that the Federal Government is not constitutionally obligated to compensate an Oklahoma public authority for depriving it of hydroelectric power potential by incorporating a state dam site on a non-navigable stream into a larger Federal project (No. 503, U. S. v. Grand River Dam Authority).

LEVITT LOSES PLEA AGAINST BIAS LAW

Supreme Court Refuses to Hear Argument on Jersey Act on Aided Housing

STATE TRIBUNAL BACKED

2 Negroes Seeking Entry to F.H.A.-Approved Project Clear Final Obstacle

WASHINGTON, June 13—The Supreme Court dismissed today an appeal from a New Jersey decision upholding that state's law against racial discrimination in any housing built with public funds or other assistance. The vote was 8 to 1.

Last Feb. 9 the New Jersey Supreme Court held that the statute applied to Levittown,

N. J. The homes there were built with the approval of the Federal Housing Administration so that buyers could obtain F.H.A.-insured mortgages.

The New Jersey court said the F.H.A. involvement in the development made it publicly assisted within the anti-discrimination law. The court rejected a contention by the builders, Levitt & Sons, Inc., that the state statute was void because it conflicted with Federal housing law.

Due Process Issued Raised

This same point was argued in an appeal filed with the Supreme Court by William P. Reiss of Newark. In addition the builders said the state statute was so vague as to deny them due process of law.

Motions to discuss the appeal had termed the builders' arguments without merit. In addition it was said that this was not the appropriate time for Supreme Court Review, because further enforcement proceedings were still to be had before the New Jersey Division Against Discrimination and Levitt could appeal from those.

The Supreme Court did not indicate the ground of its action today. It simply dismissed the appeal "for want of a substantial Federal question."

The single dissenter, Justice Hugo L. Black, said he would have heard argument on the appeal.

The brief for the state was filed by Attorney General David D. Furman. The two Negroes who sought entry to Levittown, Willie R. James and Franklin D. Todd, were represented by Jerome C. Eisenberg of Newark and Emerson L. Darnell of Mount Holly.

Supreme Court Upholds Jersey Housing Law

WASHINGTON, (UPI)—The Supreme Court Monday dismissed a challenge to New Jersey's Anti-Discrimination law as applied to a Levittown Housing project in federally-insured housing.

The case in point involved an effort by two Negroes to move into a Levittown Housing project in Burlington county, N.J.

Monday's brief order left standing a decision of last Feb. 9 by the New Jersey Supreme Court upholding the validity of the law. The order said the case did not present "a substantial federal question."

However, the case is still alive in New Jersey and will probably go the rounds through both courts again.

Justice Hugo L. Black wanted to accept it Monday.

The case was appealed by Levitt and Sons, Inc., builders of the Levittown project.

The suit stemmed from complaints by the two Negroes, William R. James and Franklin D. Todd, who were allegedly rejected as home purchasers because of their color.

Before the State Division Against Discrimination (DAD) could look into their cases, Levitt sued DAD. He challenged DAD's jurisdiction and attacked the constitutionality of the law.

DAD hearings were at first held up while the case was in court but later the state Supreme court allowed them to continue.

The state Supreme court ruled that DAD had jurisdiction under the law to hear the complaints and upheld the law itself.

Levitt had argued, among other things, that the law discriminated unfairly against publicly assisted housing as compared to housing in general and that it invaded a field occupied by the U. S. Congress.

12d 1960

SUPREME COURT

INTERSTATE BUS TERMINALS
SEGREGATION IN RESTAURANTS

High Court To Study Bus Restaurant Bias

Bham World
Bham Ala
WASHINGTON (UPI)—The Supreme Court agreed Tuesday to look into a challenge to racial segregation in restaurants of interstate bus terminals.

27-60
The court will hold arguments in the case later this term and will follow with a written opinion.

The case stemmed from an experience of Bruce Boynton, a Negro student at Howard University, during a bus ride earlier this year from Washington, D. C., to his home in Selma, Ala.

When the railroads bus reached the Richmond, Va., terminal, Boynton went inside in search of lunch. Instead of waiting in the crowded restaurant for Negro patrons, he sought service in the white restaurant.

After a waitress explained she could not serve him, the assistant manager asked Boynton to leave. He refused, was later arrested and fined \$10 in the Richmond Police Court. The Richmond Hustings Court affirmed and the Supreme Court of Appeals rejected his petition for a writ of error.

He was convicted of violating a state law making it an offense to remain on "the premises of another" after having been forbidden to do so.

The U. S. Supreme Court held years ago that racial segregation on interstate buses is unconstitutional, as well as rules by a bus company to the same effect. It later ruled that segregated railroad dining cars violate the interstate commerce act.

But there has been no ruling on segregated restaurants in intrastate bus or railroad stations.

In appealing to the high tribunal, Boynton said "State criminal machinery has been used to enforce discrimination."

He was represented, among other attorneys, by Thurgood Marshall, prominent New York lawyer for the National Association for the Advancement of Colored People.

12d 1960

SUPREME COURT

1. CUTLAWING USE IN FEDERAL CRIMINAL TRIALS
EVIDENCE OBTAINED ILLEGALLY BY STATE POLICE
2. UP-HELD CONVICTIONS OF 5 GREENSBORO, N.C.
NEGROES SENTENCED TO 15 DAYS IN JAIL FOR
TRESPASSING A GOLF COURSE RESERVED FOR WHITE
PERSONS ONLY.

Negroes In Trespass Case Appeal

WASHINGTON, June 27 (UPI)—The Supreme Court ended its 1959-60 term today by handing down a flood of decisions, including one outlawing the use in Federal criminal trials of evidence obtained illegally by state police.

Before adjourning for the summer, the court also upheld the convictions of five Greensboro, N. C., Negroes who were sentenced to 15 days in jail for trespassing on a golf course reserved for white persons only.

The Greensboro golf course case also was decided by a 5-4 vote, with Stewart speaking for the majority. Dissenters were Chief

Justice Earl Warren and Justices Hugo L. Black, William O. Douglas and William J. Brennan Jr., the court's so-called "liberal" wing.

The five Negroes involved were Leon Wolfe, George Simkins Jr., Joseph Sturdivant, Samuel Murray, and Elijah H. Herring. Their first trespass conviction was set aside on a technicality and they later obtained a Federal District Court order barring segregation on the course.

The weight of this order in a criminal case was one of the points at issue in arguments before the high court.

Docket Cleared

The court issued almost a score of written opinions to clean up its docket until October. It also handed down as many orders rejecting appeals, granting hearings to defendants, or setting the stage for oral arguments next term.

Among the rejected appeals was one from Boston textile tycoon Bernard Goldfine, one-time friend of former presidential assistant Sherman Adams. Goldfine now

must serve a three-month jail sentence for contempt of court for failing to produce records for Federal tax agents.

The cases the court agreed to review next term included some involving the legality of certain union hiring halls, the use of wiretape evidence in state criminal trials, and the right of Korean war prisoners who defected to the Communists to receive back pay.

Conviction Voided

As a highlight of the final day of its eight-months term, the court set aside the 1957 Federal wiretapping conviction of James Butler (Big Jim) Elkins, well-known Portland, Ore., figure, and Raymond Frederick Clark, one of his employees.

The high court held also in a 5-4 ruling, that the trial court should not have permitted introduction of evidence admitted seized illegally by state agents. Elkins, a one-time star witness before the Senate Rackets Committee, was sentenced to 20 months in prison and fined \$2000.

Justice Stewart, who again spoke for the majority, said a Federal court must conduct its own independent inquiry to determine if tainted evidence is admissible, even though a state court has conducted its own investigation.

Dissenters were the hard-core of the court's so-called conservative wing—Justices Felix Frankfurter, Tom C. Clark, John M. Harlan, and Charles E. Whitaker.

12d 1960

SUPREME COURT

TERRELL COUNTY, GEORGIA
VOTING SUIT

High Court Revives The Atlanta Constitution Terrell Voting Suit

By CHARLOTTE G. MOULTON

WASHINGTON (UPI) — The justice department won a double-barreled Supreme Court victory Monday in its fight to enforce Negro voting rights in the South. Atty. Gen. Rogers promptly urged qualified voters "who have been discriminated against on account of race or color . . . to renew their efforts to exercise their constitutionally protected right to register and vote."

He also said the high court decisions were "a firm foundation for further congressional action to protect minority voting rights." He specifically urged action on two administration proposals. In one decision, the court ruled unanimously that the department has the power under the 1957 Civil Rights Act to bring suits against state officials accused of violating Negro voting rights.

The court's ruling reinstated a government suit against registrars of Terrell County, Ga. The suit was dismissed last April by Federal Judge T. Hoyt Davis of the Middle District of Georgia on grounds that the act was unconstitutional.

In another case, the high court in a brief order removed a legal roadblock in the way of enforcing a lower court ruling restoring 1,777 Negroes to the voting rolls in Washington Parish, La.

The high court's ruling will permit the Negroes to vote in the Louisiana general elections on April 19.

The two cases were among the group that were argued before the court only last week. Rogers, who participated in the arguments, listened to the rulings from his seat at the desk reserved for government counsel.

Afterward, he issued his statement urging Negroes to press for their rights and calling for new legal safeguards against voting

discrimination. In the latter connection, Rogers urged approval of administration proposals to require the states to preserve voting records and to authorize the federal courts to appoint referees to qualify Negro voters faced by discrimination.

Rogers said he hoped state officials would "comply with the mandate of the Constitution, the Congress and the courts and permit qualified Negroes to exercise their right to vote."

"If any infringement of the right occurs," he said, "it should be reported to the Department of Justice for appropriate action."

In the Georgia case, Justice William J. Brennan Jr., speaking for the court, held that Judge Davis erred in ruling the 1957 law unconstitutional because it authorized voting suits against private persons in violation of the 15th Amendment to the Constitution.

Brennan made it plain the high court was not ruling on the constitutionality of the law as applied to suits against private individuals. He said it was not expressing any view on the "ultimate scope" Congress intended for the law.

But he said that Davis "should have gone no further" than the facts of the suit "and should have upheld the act as applied in the present action."

In the Louisiana case, the court set aside an appeals court ruling temporarily blocking an order by Federal Judge J. Skelly Wright directing Washington Parish officials to restore the Negroes to the rolls.

12d 1960

SUPREME COURT

LOUISIANA
TERRELL COUNTY, GA.

Louisiana Montgomery Vote Purge Advertiser Overturned

Montgomery
High Court Upholds

Ala.

1957 Civil Rights Act
Due 3-1-60
With Georgia Ruling

WASHINGTON (AP) — The Supreme Court Monday upheld a part of the 1957 Civil Rights Act. It also ordered 1,377 Louisiana Negroes restored to the voting rolls. Both decisions were unanimous.

In a split decision, the court sustained the right of states to discharge employees who refuse to answer questions touching on security.

The court reversed a finding by U.S. Dist. Judge T. Hoyt Davis of Macan, Ga., that sections of the act aimed at protecting voting rights of Negroes were unconstitutional.

ILLEGALLY PURGED
Then, on the basis of its findings in the Georgia case, the court held that 1,377 Negro voters had been illegally purged from the rolls in Louisiana's Washington Parish. The court ordered them restored.

This first Supreme Court test of the vital voting provisions of the Civil Rights Act resulted in a federal government victory which presumably will permit the Negroes to vote in Louisiana's April election.

The decisions coincided with the opening in the Senate of a drive to break a Southern filibuster against a new civil rights law aimed at helping Negroes vote.

EMPLOYEES DISCHARGE
The ruling on the right of states to discharge employees who refuse to answer questions dealing with security came in the case of two employees of Los Angeles County. They were discharged after refusing to answer questions in hearings before the House Committee on Un-American Ac-

Chief Justice Earl Warren dis-qualified himself in this opinion because of his California background. The other justices split 4-4 on the discharge of Thomas W. Nelson, which had the effect of upholding his dismissal. In the case of Arthur Globe, the discharge was sustained by a 5-3 vote.

Justice Tom C. Clark delivered the majority opinion which held, in effect, that the California law applied in the case was sound because it was based on a question of insubordination by Globe.

FIX PRICES
In the only other opinion read from the bench, the court ruled 6-3 that Parke, Davis & Co. had violated the Sherman Antitrust Act in its 1956 efforts to fix prices for its drug products at stores in Washington, D.C. and Richmond, Va.

The Washington Dist. Court, which had dismissed the government's charges, was reversed and ordered to issue an injunction restraining the company from similar practices in the future unless the company elects to submit evidence in defense.

Monday's ruling in the Georgia vote case brought quick indications that the Justice Department will push with new vigor its efforts to extend Negro vote registration in the South.

Atty. Gen. William P. Rogers hailed the court's action and said anyone previously discriminated against because of race "may, and it is to be hoped, will renew their efforts" to register and vote.

COMPLY WITH MANDATE
Rogers expressed belief "responsible state officials will comply with the mandate of the Constitution, the Congress and the courts" and permit qualified Negroes to register. But he added, "if any infringement of the right occurs, it should be reported to the Department of Justice."

Rogers saw the decision as providing a "firm foundation" for further congressional action to protect Negroes' voting rights.

The Georgia case stemmed from a suit filed by the Justice Department against voting officials of Terrell County, Ga., seeking an injunction against what the government claimed was systematic denial of voting rights to

Negroes.

EXCEEDED AUTHORITY
The defendants attacked the constitutionality of the 1957 act and Davis ruled in their favor. He held the act improperly gave the attorney general the right to proceed against private citizens. The high court held this question was not before the court and that Davis exceeded his authority in passing on the question of constitutionality in the case at hand.

The effect of the ruling is to return the case to Davis' court for a hearing on its merits.

Technically the court held only that the 1957 act is valid as it applies to the case as presented to Judge Davis. The way for further litigation was held open by the final paragraph of the main opinion which said:

"The parties have engaged in such discussion concerning the ultimate scope in which Congress intended this legislation to apply, and concerning its constitutionality under the Fifteenth Amendment in these various applications. We shall not compound the error we have found in the District Court's judgment by intimating any views on either matter."

In the Louisiana case, the court upheld U.S. District Judge J. Skelly Wright at New Orleans who found wholesale removal of Negro names from the Washington Parish registration rolls was "massive discrimination" and ordered Registrar Curtis M. Thomas to restore them. Wright also enjoined members of the White Citizens Councils, which initiated the challenges that led to the disqualifications, from making any further challenges aimed at barring Negroes.

On appeal by council members the U.S. Fifth District Court of Appeals stayed Wright's order and it was this ruling that the Supreme Court set aside Monday.

Way Cleared For April Negro Vote In Louisiana

By CHARLOTTE G. MOULTON
(United Press International)

WASHINGTON (UPI)—The Justice Department won a double-barreled Supreme Court victory Monday in its fight to enforce Negro voting rights in the South.

Attorney General William P. Rogers promptly urged qualified voters "who have been discriminated against on account of race or color to renew their efforts to exercise their constitutional-protected right to register and vote."

The cabinet official also said the high court decisions were "a firm foundation for further congressional action to protect minority voting rights." He specifically urged action on two administration proposals.

In one decision, the court ruled unanimously that the department has the power under the 1957 Civil Rights Act to bring suits against state officials accused of violating Negro voting rights.

The court's ruling reinstated a government suit against registrars of Terrell County, Ga. The suit was dismissed last April by Federal Judge T. Hoyt Davis of Americus, Ga., on grounds that the act was unconstitutional.

REMOVES LOUISIANA BLOCK
In another case, the high court in a brief order removed a legal roadblock in the way of enforcing a lower court ruling restoring 1,377 Negroes to the voting rolls in Washington Parish, La.

The high court's ruling will permit the Negroes to vote in the Louisiana general elections on April 19.

The two cases were among the group that were argued before the court only last week. Rogers, who participated in the arguments, listened to the rulings from his seat at the desk reserved for government counsel.

Afterwards, he issued his statement urging Negroes to press for their rights and calling for new legal safeguards against voting discrimination.

In the latter connection, Rogers urged approval of administration proposals to require the states to preserve voting records and to authorize the federal courts to appoint referees to qualify Negro voters faced by discrimination.

SAYS JUDGE ERRED
In the Georgia case, Justice William J. Brennan Jr., speaking for

the court, held that Judge Davis erred in ruling the 1957 law unconstitutional because it authorized voting suits against private persons in violation of the 15th Amendment to the Constitution.

Brennan made it plain the high court was not ruling on the constitutionality of the law as applied to suits against private individuals. He said it was not expressing any view on the "ultimate scope" Congress intended for the law.

But he said that Davis "should have gone no further" than the facts of the suit "and should have upheld the act as applied in the present action."

In the Louisiana case, the court set aside an appeals court ruling temporarily blocking an order by federal Judge J. Skelly Wright directing Washington Parish officials to restore the Negroes to the rolls. Under Louisiana law, any two qualified voters may challenge another's right to vote. The challenges against the Negroes were based on misspelled words on registration cards, miscalculations of age and the like.

But Wright ruled that the challenges were made for racial reasons. He ordered an end to all interference with the Negroes' right to vote.

Alabama Prepares Gerrymandering

Worried Alabama authorities, assigned to the likelihood of a new civil rights law, are especially anxious to see whether it will affect local as well as federal elections. That question, as much as anything, will determine their future course of action.

If Congress provides for federal referees or registrars to guarantee Negroes the right to vote only in the election of federal officers, Alabama may well find itself with duplicate lists of voters.

Negroes registered as voters by federal officers would have the right to cast their ballots for members of Congress and for presidential electors.

But unless Congress extends the mandate to cover state and local elections, county registration boards would still have the right to say who votes for state and local officeholders as they do now.

Suppose the registrars resign or refuse to serve as they have in Macon County. Negroes ordered registered by federal authorities could vote in federal elections — that is what Congress ultimately decides on—but only those previously certified by the county board could cast a ballot in other

all practical purposes, there would be two sets of voters. But there's one weak point in that theory — the possibility that those who are eligible to vote for congressmen might automatically be qualified to express their choice for members of the State House of Representatives.

Section 2 of the first article of the U.S. Constitution says voters taking part in the election of congressmen "shall have the qualifications requisite for electors of the most numerous branch of the state Legislature." That means, in effect that any qualified to vote for House members on the state level is

eligible to help elect members of the national House of Representatives.

Turning it around, does it also mean that any voter eligible to cast his ballot for Congress is qualified to vote for members of the Legislature? Legal authorities say it might just mean that.

If so, Negroes certified as voters by federal referees could take part in the election of members of the Alabama House. And in a county like Macon where Negroes outnumber white residents nearly 6-1, they might elect a Negro legislator.

Because of the chance that Congress might empower federal referees to register Negroes to vote in any election, some legislators are talking of the abolition of one or more counties which have heavy Negro populations.

Based on the 1950 census, Negroes outnumber white residents in 14 of the state's 67 counties.

An effort has already been made to do away with Macon County, where the differential is greatest, and divide its Negro population among the surrounding counties.

A special Senate-House committee which studied the problems involved recommended no immediate action. But the voters approved a constitutional amendment giving the Legislature the authority to gerrymander Macon out of existence or reduce it in size.

The same could be done with the 13 others where Negroes have a majority — Barbour, Bullock, Choctaw, Dallas, Greene, Hale, Lowndes, Marengo, Monroe, Perry, Russell, Sumter and Wilcox.

They could be absorbed by neighboring counties where the Negro population is less heavily concentrated.

Supreme Court to Weigh Tuskegee Gerrymander

By Richard L. Lyons
Staff Reporter

The Supreme Court agreed yesterday to decide the constitutionality of Alabama's action in redrawing the city boundaries of Tuskegee to exclude virtually all

Negro voters.

Tuskegee is a Negro cultural island, the site of Tuskegee Institute and a Veterans Administration hospital staffed by Negroes. Its population is nearly 5 to 1 Negro, but their registration has been held down to less than half the total vote.

Three years ago when Tuskegee Negroes launched a determined drive to register to vote, the State Legislature changed the city from a geographical square to a 28-sided figure. The boundaries twisted up and down certain streets and alleys in a shape that the Negroes affected called a "sea dragon."

The result was that all but "four or five" of the city's 400 registered Negro voters now live outside the city in the county. The Negro Institute also was excluded. None of the 600 white voters were pushed out of town. Sponsors of the legislation reportedly urged passage to prevent Negroes from "taking over" the city government.

Alabama voters also approved a referendum question permitting the State to abolish the heavily Negro Macon County, which contains Tuskegee, by dividing it among its neighbors. That hasn't happened yet.

Several Negroes excluded by the gerrymandering went to court contending that solely because of their race they had

been denied city services and the right to take part in city government. They said this violated the 15th Amendment's bar against racial discrimination in voting and the 14th Amendment's requirements that a state treat its citizens fairly and equally.

The Justice Department urged the Supreme Court to review the case. It said the case presents issues of "na-

Map on Page A2.
Supreme Court to examine censorship requirement that films be approved by Government officials before showing. Page A9

tional significance," and stated that if the city was given its "bizarre" new shape in order to exclude Negroes it would be "patently unconstitutional."

Lower Federal courts have ruled against the excluded Negroes on grounds that the shape of a town is a "political" matter which courts should not get into.

This is the argument the Supreme Court always has relied on in refusing to rule on political gerrymandering.

If the Supreme Court rules against the Tuskegee gerrymander, the town vs. country question undoubtedly will be back before it in a hurry. One distinction is that while the

Constitution forbids discriminating against Negro voters, it says nothing against discriminating against city voters.

Court Upsets NAACP Fine In Little Rock

WASHINGTON (AP)—The Supreme Court struck down Tuesday the convictions of two Arkansas leaders of the National Assn. for Advancement of Colored People who refused to bare NAACP membership rolls and contributors.

The court said the two NAACP leaders, fined \$25 each under Little Rock and North Little Rock city ordinances, could not be punished for refusing to produce information which the municipalities could not constitutionally require.

Daisy Bates, state NAACP president, was convicted under a Little Rock ordinance which imposes an annual license tax on a broad variety of business, occupations, and professions. Birdie Williams, president of the North Little Rock branch, was convicted under an identical ordinance of that city.

MEMBERS, CONTRIBUTORS

Justice Potter Stewart, speaking for a unanimous court, said the two municipalities had "failed to demonstrate a controlling justification for the deterrence of an association which compulsory disclosure of the membership list would cause."

The Little Rock and North Little Rock NAACP branches gave the municipalities all the information required by their ordinances except the names of members and contributors.

They said their refusal was based "on the anti-NAACP climate in the state," and that publication of the names of members and contributors might lead to their harassment, economic reprisals, and even bodily harm.

Justice Hugo L. Black, in a concurring opinion in which Justice James O. Douglas joined, said the facts show the ordinances as applied violated freedom of speech and assembly guaranteed by the First Amendment and made applicable to the states by the 14th

Amendment.

The court's decision on the Little Rock and North Little Rock ordinances did not strike down the ordinances as unconstitutional. It merely held they could not be used as the vehicle to compel NAACP branches to disclose memberships and contributors.

Stewart said it cannot be questioned that the governmental purpose upon which the municipalities rely is a fundamental one.

"No power is more basic to the ultimate purpose and function of government than the power to tax," he said.

Stewart noted that it was an adjunct to their power to tax that the municipalities enacted the legislation in question, and added:

"But governmental action does not automatically become reasonably related to the achievement of a legitimate and substantial governmental purpose by a mere assertion in the preamble of an ordinance."

"When it is shown that the state action threatens significantly to infringe upon constitutionally protected freedoms it becomes the duty of the court to determine whether the action bears a reasonable relationship to the achievement of the governmental purpose asserted as its justification."

"In the record we can find no relevant correlation between the power of the municipalities to impose occupational license taxes and the compulsory disclosure and publication of the membership lists of the local branches of the National Assn. for the Advancement of Colored People."

Arkansas NAACP Wins Similar To Alabama

The action of the U.S. Supreme Court in striking conviction of Arkansas NAACP leaders is in line with previous decisions that threw out a \$100,000 fine imposed on the NAACP by an Alabama court.

The Supreme Court last June for the second time refused to uphold the \$100,000 fine.

In its first ruling, the high court held membership lists were private.

In its second action, it ruled

that the Alabama Supreme Court was too late in pointing out that other records than membership lists had been called for.

Circuit Judge Walter B. Jones of Montgomery had fined the NAACP for civil contempt after it had refused to furnish the state with a list of its Alabama members.

The action was taken during a hearing on whether an injunction outlawing NAACP activities in Alabama should be made permanent.

Last October, the Supreme Court refused to review its decision in twice setting aside the fine on the NAACP in Alabama.

Text Of Opinion By Black, Douglas

WASHINGTON (AP)—Following is the text, minus legal citations, of the opinion by Justices Black and Douglas concurring in a Supreme Court decision knocking out fines imposed against two NAACP officials in Little Rock and North Little Rock, Ark.:

We concur in the judgment and substantially with the opinion because we think the facts show that the ordinances as here applied violate freedom of speech and assembly guaranteed by the First Amendment which this court has many times held was made applicable to the states by the 14th Amendment . . .

Moreover, we believe . . . that First Amendment rights are beyond abridgment either by legislation that directly restrains their exercise or by suppression or impairment through harassment, humiliation, or exposure by government. One of those rights, freedom of assembly, includes of course freedom of association—as distinguished from criminal acts; and it is entitled to no less protection than any other first amendment right . . . these are principles applicable to all people under our constitution irrespective of their race, color, politics, or religion. That is, for us, the essence of the present opinion of the court.

In Arkansas cities—

Court voids fines imposed on NAACP

WASHINGTON, Feb. 23—The Supreme Court today unanimously struck down fines imposed by Little Rock and North Little Rock, Ark., on leaders of the National Assn. for the Advancement of Colored People who refused to identify local members.

Justice Stewart delivered the court's opinion. Justices Black and Douglas wrote a concurring opinion.

Stewart said that on the record "it sufficiently appears that compulsory disclosures of the membership lists of local branches of NAACP 'would work a significant interference with the freedom of association of their members.'"

STEWART ADDED, "There was substantial uncontroverted evidence that public identification of persons in the community as members of the organizations had been followed by harassment and threats of bodily harm."

"There was also evidence that fear of community hostility and economic reprisals that would follow public disclosure of the membership lists had discouraged new members from joining the organizations and induced former members to withdraw."

The justice went on: "This repressive effect, while in part the result of private attitudes and pressures, was brought to bear only after the exercise of governmental power had threatened to force disclosure of the members' names."

STEWART SAID the two Arkansas municipalities had failed "to demonstrate a controlling justification for the deterrence of free association," and that hence officials of NAACP "cannot be punished for refusing to produce information."

Black said in his concurring opinion, in which Douglas joined, that they felt the facts showed the ordinances involved as applied in the case of the two NAACP officials violate freedom of speech and assembly guaranteed by the First Amendment to the Constitution.

Black wrote that First Amendment rights are beyond abridgment either by legislation that directly restrains their exercise or by suppression or impairment through harassment, humiliation or exposure by government.

Black said these principles are applicable to all people under the Constitution, irrespective of their race, color, politics or religion.

"THAT IS, FOR US, the essence of the present opinion of the court," Black wrote.

The court ruled on a joint appeal by Mrs. Daisy Bates of Little Rock, Arkansas president of the NAACP, and Mrs. Birdie Williams, president of the North Little Rock branch of NAACP. They were fined \$25 each for refusing to disclose names of members and contributors to NAACP.

The fines were imposed under identical ordinances adopted by the two cities in 1957.

Known as occupational privilege tax ordinances, they require benevolent and non-profit organizations seeking tax exemptions to file with clerks of the cities financial statements and other information.

N. A. A. C. P.'s Fines Voided By Top Court Two Arkansas Laws Violate Constitution

WASHINGTON, Feb. 23

(AP).—The Supreme Court today struck down the convictions of two Arkansas leaders of the National Association for the Advancement of Colored People who refused to bare N. A. A. C. P. membership rolls and list contributors.

The court said the two N. A. A. C. P. leaders, fined \$25 each under Little Rock and North Little Rock city ordinances, could not be punished for refusing to produce information which the municipalities could not constitutionally require.

Mrs. Daisy Bates, state president of the N. A. A. C. P., was convicted under a Little Rock ordinance which imposes an annual license tax on a broad variety of business, occupations, and professions. Mrs. Birdie Williams, president of the North Little Rock branch, was convicted under an identical ordinance of that city.

"Free Association"

Justice Potter Stewart, speaking for a unanimous court, said the two municipalities had "failed to demonstrate a compelling justification for the deterrence of free association which compulsory disclosure of the membership list would cause."

The Little Rock and North Little Rock N. A. A. C. P. branches gave the municipalities all the information required by their ordinances except the names of members and contributors.

They said their refusal was based "on the anti-N. A. A. C. P. climate in the state," and that public disclosure of the names of members and contributors might lead to their harassment, economic reprisals, and even bodily harm."

14th Amendment

Justice Stewart said it now is beyond dispute that freedom of association for the purpose of advancing ideas and airing grievances is protected from invasion of the states under the due-process clause of the Four-

teenth Amendment.

"Freedoms such as these are protected not only against heavy-handed frontal attacks, but also from being stifled by more subtle government interference," Justice Stewart said.

He said it appeared that compulsory disclosure of membership of local branches of the N. A. A. C. P. "would work a significant interference with the freedom of association of their members."

Justice Stewart said there was substantial uncontroverted evidence that public identification of persons as members of the N. A. A. C. P. had been followed by harassment and threats of bodily harm.

Furthermore, Justice Stewart wrote, there was also evidence that fear of community hostilities and economic reprisals would follow public disclosure of membership lists. He said this had discouraged new members from joining and had induced former members to withdraw.

Justice Hugo L. Black, in a concurring opinion in which Justice William O. Douglas joined, said the facts show the ordinances as applied violated freedom of speech and assembly guaranteed by the First Amendment and made applicable to the states by the Fourteenth Amendment.

Justice Black said that First Amendment rights are beyond abridgment either by legislation that directly restrains their exercise or by suppression or impairment through harassment, humiliation or exposure by government. He said these principles are applicable to all people under the Constitution irrespective of their race, color, politics or religion.

"That is, for us, the essence of the present opinion of the court," he wrote.

12d 1960

Georgia Ruling Junked

Supreme Court Backs Negro Voting Rights

WASHINGTON (AP)—In a unanimous action, the Supreme Court Monday backed a federal drive to enforce Negro voting rights in the South.

1—It upheld key sections of the 1957 Civil Rights Act, throwing out a Georgia federal judge's ruling that this law gave the U.S. attorney general unconstitutional powers to seek injunctions against alleged violations of voting rights.

2—In a terse, two-paragraph order, it restored voting privileges to 1,377 Negroes stricken from registration rolls of Washington Parish, La. The Justice Department had charged that this was an illegal "mass purge." The department hastened an appeal so the Negroes could vote in a state election April 12.

The decision coincided with the opening in the Senate of a drive to break a Southern filibuster and pass a new civil rights law aimed at helping Negroes vote.

The civil rights cases were the headliners in a busy day in which the tribunal also:

Upheld a California law requiring dismissal of any public employee who refuses to say when asked whether he belongs to the Communist Party.

The ruling on the right of states to discharge employees who refuse to answer questions dealing with security was in the case of two employees of Los Angeles County, Calif. They were discharged after refusing to answer questions in appearances before the House Committee on Un-American Activities.

In its decision on the 1957 Civil Rights Act, the high court took the stand that Congress

can clothe the executive branch of the federal government with powers to guard voting rights.

COURT CLEARS WAY TO PROBE OF VOTE BARS

BY JOSEPH HEARST
[Chicago Tribune Press Service]

Washington, June 20—The Supreme Court ruled Monday that persons accused of denying voting rights to qualified voters do not have the right to confront and cross-examine their accusers. The ruling opened the way for the Civil Rights commission to resume its investigations into voting rights cases in southern states.

The decision, on which the court split 7 to 2, was written by Chief Justice Earl Warren. Justice William O. Douglas wrote a dissent in which Justice Hugo L. Black joined. The decision threw out an injunction against the commission issued last October by a special three-judge court in Shreveport, La.

Found Rights Violated

The special court held that the 1957 act which created the commission was constitutional, but asserted that the commission's rules of procedure violated the traditions of voting registrars and individuals in denying them the right to know the charges against them, confront their accusers, and cross-examine

them.

The case was brought directly to the high court by the justice department and the Civil Rights commission stopped its hearings in the south until the Supreme court could rule.

The commission rules provide that the identity of those alleging their civil rights are violated—in this instance 67 Negroes in three Louisiana parishes [counties]—need not be disclosed.

Fear Too Many Fetters

The court below did not reach the constitutional issue of deprivation of the rights of the registrars, but Warren wrote that "the purely investigative nature of the commission's proceedings, the burden the claimed rights would place on the proceedings, and the traditional procedure of investigative agencies in general, leads up to the conclusion that the commission's rules of procedure com-

port with the requirements of due process." Warren said a study of various phases of governmental investigation showed that witnesses appearing before "investigating agencies, whether legislative, executive, or judicial, have generally not been accorded the rights of appraisal, confrontation, or cross-examination."

Nothing New
"Altho we do not suggest that the grand jury and the congressional investigating committee are identical in all respects to the Civil Rights commission, we mention them . . . to show that the rules of this commission are not alien to those which have historically governed the procedure of investigative agencies of the three major branches of our government," he added.

Douglas said that the cause which the majority opinion serves is, on the sur-

SUPREME COURT

face, one which a person dedicated to constitutional principles could not question, that is the right to vote.

Warns Against Short Cuts

"Yet, important as these civil rights are, it will not do to sacrifice other civil rights in order to protect them," he said. "We live and work under a Constitution. The temptations of many men of good will is to cut corners, take short cuts, and reach the desired end regardless of the means. Worthy as I think the ends are which the Civil Rights commission advances in these cases, I think the particular means used are unconstitutional."

The charges against the registrars, if true, make them liable to fine and imprisonment, Douglas said, and the commission are aimed at determining whether the criminal law has been violated, even though the commission, as an arm of the executive branch, has no power to prosecute.

A Very Real "Trial"

"The might and power of the federal government have no equal," Douglas said. "When its guns are leveled at a citizen on charges that he committed a federal crime, it is for me no answer to say that the only purpose is to report his crimes to the President and Congress, not to turn him over to the district attorney for prosecution."

The Civil Rights commission, it is true, returns no indictment. Yet in a real sense the hearings on charges that a registrar has committed a federal offense are a trial.

Douglas said that if "these trials" are to be held on charges that the registrars are criminals, "the least we can do is allow them to know what they are being tried for, and to confront their accusers and cross-examine

them."

In a 5 to 4 decision the court upheld the validity of a part of the social security law which permits the government to cut off the old-age benefits of a person who has been deported because he once was a member of the Communist party.

Justice John M. Harlan wrote the decision. The dissenters were Justices Douglas, Warren, Black, and William J. Brennan Jr., three of whom wrote dissents.

Douglas said the 1954 law "seems to me to be a classic example of a bill of attainder," which the Constitution prohibits. A bill of attainder is a legislative act which inflicts punishment without a judicial trial.

1954 Law Invoked

The case involved Ephram Nestor, who came to the United States from Bulgaria in 1913 and lived here until 1956, when he was deported for having been a member of the Communist party from 1933 to 1939.

When he was deported, Nestor had reached the age of 65 and was receiving \$55.60 a month in social security benefits. The government cut them off under the 1954 amendment to the social security act, and his wife, who had remained in this country, sued to have the payment restored and sent to him in Bulgaria.

The decision reversed the decision of District Judge Edward A. Tamm of the District of Columbia who held that Nestor was being deprived of "an accrued property right" in being denied the benefits after he had paid social security taxes for many years.

Boldness Needed

"To engraft on the social security system a concept of 'accrued property rights' would deprive it of flexibility and boldness in adjustment to ever changing conditioning

NEGRO VOTING

which it demands," Harlan said.

Black said the action takes Nestor's insurance without just compensation and, moreover, it is a post facto law and bill of attainder by stamping him, without a court trial, as unworthy to receive that for which he has paid and which the government promised to pay him."

Brennan said the decision sanctions using the social security program "to inflict hurt on those who by their conduct have incurred the displeasure of Congress."

In preparing to quit next Monday for the summer, the court handed down 15 writs of certiorari and orders in 40 or 50 other cases, including an order for additional arguments next fall in a case involving the constitutionality of a railway labor act enforcing compulsory membership in a union if the dues are used for political purposes to which the member objects.

More Arguments Set

In ordering additional arguments, the court said the United States attorney general had not been advised formally that the constitutionality of the act is at stake, and at the same time so advised him. The Georgia state courts have held the act unconstitutional. The case was brought by a group of Georgia employees of the Southern railroad against the International Association of Machinists. A number of other labor unions have also declared themselves with the appeal.

The high court upheld the constitutionality of the union shop—in which workers have to join a union within a specific period of time after they go to work—in a 1956 case, but warned then that the result might not be the same if the collection of dues was used as a cover for enforcing ideological conformity."

12d 1960 ✓

SUPREME COURT

VOTING
LOUISIANA ✓

High Court Voids *The Miami Herald* Louisiana Bar to *Miami Fla. Times 6/21/60* Vote Rights Probe *P. 12-A*

WASHINGTON — (UPI) — commission's procedures in in-
the Supreme Court Monday vestigating the complaints of
black down lower court rul-67 Negroes.

ings that prevented the Civil All had been called as wit-
Rights Commission from in-nesses as a result of com-
vestigating into complaints of plaints by the Negroes that
Negro voting rights violations their voting rights had been
in Shreveport, La. denied.)

The 7-2 ruling cleared the Instead of appearing, the two
way for the commission, creat-groups successfully sued to
ed by the 1957 Civil Rights halt the hearings.
Act to guarantee Negro rights
in the South, to resume its
inquiries. It has been marking
time since last July pending
a final decision on the matter
by the high court.

Dissenters were Justices
Hugo L. Black and William
O. Douglas. Chief Justice Earl
Warren wrote the majority
opinion, which represented a
major milestone in the long-
standing fight between the
southern authorities and fed-
eral officials over the civil
rights issue.

Monday was the fourth civil
rights case to be decided by
the high court this term. On
Feb. 29 the court reversed a
lower court ruling that the
Civil Rights Act is unconstitu-
tional and thus cleared the
way for more lawsuits by the
justice department on behalf
of voteless Negroes.

In the second opinion the
same day, the court ordered
1,377 Negroes restored to the
voting rolls of Louisiana.

The third case — from Ala-
bama — posed the question
of whether the department
may sue a state as an entity
instead of state officials. This
issue petered out because the
new civil rights law passed
earlier this year authorizes
such suits.

The voting rights case was
prompted by the action of a
group of private Louisiana citi-
zens and the voting registrars
of 17 of the states parishes
(counties) in challenging the

GOOD NEWS!

TUSKEGEE GOES TO WASHINGTON THE SUPREME COURT WILL HEAR THE GERRYMANDER CASE DURING ITS OCTOBER 1960 TERM!

WHAT IT IS

This suit, to restore the city limits of Tuskegee, was brought by Mr. C. G. Gomillion and other former residents of the city on their behalf and for the benefit of ALL OTHER PERSONS similarly excluded. **Everyone of us has a stake in it.** Aside from depriving city residents of municipal services, the gerrymander was a slap in the face of ALL Macon County Negroes. The real reason, as everyone knows, was to restrict Negro voting rights.

WHAT'S BEEN DONE

The city limits were changed by a simple, inexpensive Act of the Alabama State Legislature. We did not take it lying down. The TCA has led the fight to have this discriminatory action declared unconstitutional.

WHAT IT HAS COST \$\$\$

The soldiers in this battle are DOLLARS **and** men. This case, carried into three courts, has cost over \$6,000 thus far. In the Supreme Court **alone**, we must pay \$1,300 for printing the record and briefs. And there are more costs to come—probably a total of \$8,000 just through the Supreme Court—and more should we have to go through the lower courts again.

WHAT YOU CAN DO TO HELP

The TCA is a nonprofit organization whose members and officers contribute considerable time as well as money for the benefit of **every** citizen. This case has gone forward on faith—that the community would rally support when needed. That time is NOW! We need **your** help to pay the costs of court. The TCA can no longer carry the burden alone.

TO GET BACK IN ... WE'VE GOT TO WIN!
DIG DEEP ... CHIP IN HELP PAY THE WAY

FUND RAISING DRIVE

June 1-15, 1960

If a solicitor does not call on you,
call us - Telephone 1694

Don't miss the 3rd ANNIVERSARY
CELEBRATION of the
Crusade for Freedom

Tuesday, June 28, 1960 7:30 P. M.
Greenwood Missionary Baptist Church

TUSKEGEE CIVIC ASSOCIATION

Box 467

Tuskegee Institute, Alabama

12d 1960

SUPREME COURT

REFUSED TO REVIEW TRIAL OF-
CHARLES CLARENCE HAMILTON (ALABAMA)

DOOMED NEGRO DENIED REVIEW

Washington(AP) The Supreme Court Monday refused to review the trial of Charles Clarence Hamilton, a Negro sentenced to death in Alabama for "burglary with intent to ravish" a white woman.

Hamilton was found in the bedroom of Mrs. Mary Giangrosse in Ensley, Ala., on Oct. 12, 1956. His counsel contended there was no evidence Mrs. Giangrosso was harmed or that Hamilton had any weapons or burglary tools.

Hamilton, 29, told Gov. John Patterson in a clemency hearing last April that he never committed the crime of which he was convicted.

Testimony showed Hamilton was found partially unclad in the bedroom of the elderly grandmother.

THE MONTGOMERY ADVERTISER
Tues. 6-28-60 p.1.
Montgomery, Ala.

12d 1960

SUPREME COURT

DEC. 1960
RESTAURANTS- BUS TERMINALS
INTERSTATE BUS TRAVELERS

Interstate Travel

Supreme Court Outlaws Segregated Restaurants

The News and Courier
Charleston, S.C.
Dec. 12-60

WASHINGTON (AP) — The Supreme Court Monday outlawed discrimination against Negro passengers in restaurants that regulate interstate bus travel.

Avoiding constitutional questions that might have had an important bearing on other issues involving civil rights, the court based its decision on the Interstate Commerce Act.

The ruling struck down the conviction of Bruce Boynton, a Negro traveling from Washington, D. C., to Birmingham, Ala., who refused to leave the restaurant for whites in the Trailways bus terminal in Richmond, Va.

Boynton was fined \$10 under a Virginia law which makes it a misdemeanor to refuse to leave premises on demand of persons in charge.

Justice Hugo L. Black, author of the decision, went no further than necessary to decide the case. He noted that constitutional questions had been raised in Boynton's appeal, including the due process and equal protection clauses of the 14th Amendment.

"We think there are persuasive reasons, however, why this case should be decided, if it can, on the Interstate Commerce Act question raised in the Virginia case," Black wrote.

"Discrimination is the core of the two broad constitutional questions presented us by petitioner, and it is the core of the Interstate Commerce Act question presented to the Virginia Courts. Under these circumstances, we think appropriate not to reach the constitutional questions but to proceed at once to the statutory issue."

The court thereby avoided any question of what attitude it might take in the South, as in other similar questions. It said the Interstate Commerce Act uses language of the type to bar discrimination in its own words. He recalled the discrimination in the past that

the act forbids railroad dining cars to discriminate in service on account of color.

He agreed with the contention of Virginia the evidence did not show the bus company owned or controlled the Richmond restaurant. He said, however, that the Interstate Commerce Act did not exempt motor carriers from their duty not to discriminate.

Black said the court was not holding that every time a bus stops at an independent roadside restaurant the Interstate Commerce Act requires restaurant service be supplied in harmony with the provisions of the act.

"We decide only this case, on its facts, where circumstances show that the terminal and restaurant operate as an integral part of the bus carrier's transportation service for interstate passengers," Black said. "Under these circumstances, an interstate passenger need not inquire into documents of title or contractual arrangements in order to determine whether he has a right to be served without discrimination."

Justice Charles Whittaker wrote a dissenting opinion in which Justice Tom C. Clark concurred.

Court Ends Bus Station Dining Bias

Cites Interstate Commerce Act

To Ban Practice

By James E. Clayton
Staff Reporter

The Supreme Court put another dent in segregation practices yesterday, striking down as unconstitutional discrimination because of

race in many bus station restaurants.

The Court held that restaurant which is an "integral part" of interstate bus service cannot segregate its customers without violating the Interstate Commerce Act. The Court specifically added that it was not ruling on roadside restaurants at which buses may stop casually.

Two Justices dissented from the decision which was made on the narrowest possible grounds. Justice Hugo L. Black, who wrote the majority opinion, pointed out

'Spike microphone fascinates Supreme Court justices. Page A2.

Review is refused of lower court ruling knocking down Maryland law banning crime comic books. Page A2.

Justice Department obtains Federal court injunction against enforcement of Louisiana law setting up a new school board. Page A14.

that he was avoiding two different constitutional questions which had been presented.

One of those questions, whether a state can use its police power to enforce private discrimination, bears directly on the Southern sit-in demonstrations.

The particular case before the Court was a one-man sit-in conducted in the Trailways bus terminal in Richmond, Va., two years ago by Bruce Boynton. Boynton was then a student at the Howard University Law School. He was on his way home for Christmas when he tried to buy a sandwich and some

tea in the restaurant inside the terminal. He was refused service in the portion of the restaurant reserved for whites and arrested for being there "unlawfully" when he refused to leave.

Ownership an Issue

The case reached the Supreme Court in a difficult posture because of the evidence which had been admitted during the trial. There was nothing to show that an interstate bus company either controlled or owned the restaurant or the terminal.

After the record was closed, investigation showed that two interstate bus companies own the terminal. The corporation which operates the restaurant leases the space. A spokesman said after the Court ruled yesterday that this corporation generally supervises eating facilities in Trailways bus stations.

With these facts in the record, it is clear that the Court would have had little trouble with the case. As it was, Justice Black's opinion shows that the omissions gave the justices considerable trouble. In fact, two Justices, Charles E. Whittaker and Tom C. Clark, dissented because of them.

Earlier Decisions Cited

Justice Black said that from earlier court decisions there was no doubt that discrimination against interstate passengers in terminals and restaurants "owned or operated or controlled" by interstate bus lines or railroads would be illegal.

Justices Whittaker and Clark agreed on that but they disagreed when their seven colleagues went on to say that discrimination is also illegal "where circumstances show that the terminal and restaurant operate as an integral part of the bus carrier's transportation service for interstate passengers."

Under the majority's ruling, as Justice Black pointed out, an interstate passenger will not need to inquire into who owns the restaurant or controls it in order to see if he

has a right to be served.

Railroad Precedents Listed

The decision is the latest in a series of cases under the Interstate Commerce Act. That Act, passed by Congress in 1887, has a section which makes it unlawful for an interstate carrier to give preference to or to show any unjust or unreasonable prejudice or disadvantage against any person.

In two cases in 1940 and 1949, the Court said that railroads cannot discriminate in their dining cars because of race.

From these cases, Justice Black said, "It follows . . . as a matter of course that should busses in transit decide to supply dining service, discrimination of the kind shown here would (be unlawful)."

Although nothing in Boynton's case showed that an interstate bus company owned the restaurant, Justice Black added, a bus company cannot be exempted from the requirement that it not discriminate merely by using facilities it does not own as a part of its system.

Conviction at Stake

"If the bus carrier has volunteered to make terminal and restaurant facilities and services available to its interstate passengers as a regular part of their transportation, and the terminal and restaurant have acquiesced and cooperated in this undertaking, the terminal and restaurant must perform these services without discriminations prohibited by the Act," he wrote.

To Boynton, the decision means that the Virginia courts must wipe out his conviction and \$25 fine. That will clear the way for him to take the bar examination in Alabama, something which had been held up because he had a conviction in his record.

The Virginia trespass law under which he was convicted says one is guilty if he is on property "without authority of law." Justice Black said Boynton had authority of law to be in the restaurant. The case was argued in the Supreme Court by Thur-

good Marshall of New York and Martin A. Martin of Richmond for Virginia.

12d 1960

SUPREME COURT

DEC. 1960
RESTAURANTS- BUS TERMINALS
INTERSTATE BUS TRAVELERS

2 EDICT LIMITED TO I.C.C. ACT.

Cafes for Bus Riders Must Serve Negroes, Justices Hold

WASHINGTON, Dec. 5 (AP)—The Supreme Court today outlawed discrimination against Negro passengers in restaurants that regularly serve interstate bus travelers.

Avoiding constitutional questions that might have had an important bearing on other issues involving civil rights, the court based its decision on the Interstate Commerce Act.

The ruling struck down the contention of Bruce Boynton, a Negro traveling from Washington, D. C., to Selma, Ala., who refused to leave the restaurant for whites at the Trailways Bus Terminal in Richmond, Va.

Boynton was fined \$10 under Virginia law which makes it a misdemeanor to refuse to leave a place on demand of persons in charge.

Black Is Author

Justice Hugo L. Black, author of the decision, went no further than necessary to decide the case. He noted that constitutional questions had been raised in Boynton's appeal, including the due process and equal protection clauses of the 14th Amendment.

"We think there are persuasive reasons, however, why this case should be decided, if it can, on the Interstate Commerce Act contention raised in the Virginia courts," Black wrote.

"Discrimination is the core of the two broad constitutional questions presented us by petitioner (Boynton), just as it is the core of the Interstate Commerce Act question presented to the Virginia courts. Under these circumstances, we think it appropriate not to reach the constitutional questions but to proceed at once to the statutory issue."

The court thereby avoided any question as to what attitude it might take on lunch counter sit-down demonstrations in the South, as well as on other similar questions. Black said the Interstate Commerce Act "uses language of the broadest type to bar discrimination of all kinds." He recalled

that the court has held in the past that the act forbids railroad dining cars to discriminate in service on account of color.

Black agreed with the contention of Virginia that the evidence did not show the bus company owned or controlled the Richmond restaurant. He said, however, that the Interstate Commerce carriers from their duty not to discriminate.

Black said the court was not holding that every time a bus stops at an independent roadside restaurant the Interstate Commerce Act requires that restaurant service be supplied in harmony with the provisions of the act.

"We decide only this case, on its facts, where circumstances show that the terminal and restaurant operate as an integral part of the bus carrier's transportation service for interstate passengers," Black said.

"Under these circumstances, an interstate passenger need not inquire into documents of title or contractual arrangements in order to determine whether he has a right to be served without discrimination."

Justice Charles Whittaker wrote a dissenting opinion, in which Justice Tom C. Clark concurred.

City Facilities Face Court Mixing Order

By JOSEPH P. CHAIN
Times-Union Staff Writer

An end to segregation in all recreational facilities owned and operated or leased by the City of Jacksonville was directed yesterday by U. S. District Judge

Bryan Simpson. Simpson did not draft his for-integration injunction, Simpson would not be a violation of the

But any facility the city does use, must be used on a non-discriminatory basis."

Simpson's order also will direct that the nondiscrimination policy be extended to city facilities when they are under lease to another party, where the facility is being used for events to which the general public is admitted.

But he said his order will be general in nature, covering all of the city's recreational facilities, although not listing any of them specifically. He added it will permit the city 30 days in which to comply with its provisions.

The delay in the effective date of the restraining order, the judge explained, will permit city officials time to draft new policies which will govern the future operation of the recreational facilities and to remove signs which now divide certain facilities into areas for Negroes or for whites.

Closing Hinted
The first likely result of the integration order was spelled out by Inman P. Crutchfield, city solicitor, as he presented the city's case against it.

He declared the city admitted it enforced segregation as far as swimming pools and tennis courts are concerned. "And the city will continue to enforce it as long as they remain open for use," he declared.

Simpson pointed out that an earlier ruling by the U.S. Appellate Court for this district has held that any city has the authority to close any of its recreational facilities in the face of an integration order.

Such a closing of the pools, tennis courts or any other facility

terms spelled out.

Mayor - Commissioner Haydon Burns said last night he feels it would be premature for him to comment on Judge Simpson's ruling until the order has been officially handed down and its

terms spelled out.

terms spelled out.

terms spelled out.

The mayor said that when the order is issued it will then become a matter on which the entire City Commission must decide as to future action.

During yesterday's two-hour hearing, one witness took the stand to testify as to segregation practices now in effect here.

He was Frank Hampton, one of the Negroes who brought the integration suit. Hampton identified a number of photographs showing signs pointing out the picnic area for "colored" at the zoo, and a water fountain in Hemming Park with sides designated for white and colored.

Crutchfield argued that the signs were "informative, not mandatory," and the city made no attempt to enforce their directives, which frequently were ignored by Negroes.

Simpson asked Crutchfield: "Would you suggest that the Negroes ignore such signs and face a possible arrest?"

Crutchfield said, "I'm not suggesting anything."

Final Argument

The final argument for the issuance of a permanent injunction restraining the city from exercising any racial discrimination in any of its facilities was voiced by Ernest D. Jackson, Negro attorney for the plaintiffs.

He quoted the findings of federal courts in similar cases arising in St. Petersburg, Atlanta, Montgomery, Ala., and other cities where it had been held that any racial restrictions were violations to the 14th Amendment to the Constitution.

"That amendment guarantees the dignity of individuals, even though they may be in the minority," said Jackson.

"This is not a question of some whim of a minority group," he said. "It is a question of maintaining the guaranteed rights of every citizen to life, liberty and the pursuit of happiness, regardless of race or color."

"We know this idea of integration is fraught with burdens and problems for the city, but we believe government should be strong enough to withstand the burdens and solve the problems," he added.

Delayed Action

Jackson said his clients deliberately withheld pushing for a final judgment in the suit until such a time as the swimming pools were closed and when there would be a lag of several months

in their reopening during which the city could consider the problems integration would create.

Simpson said the law involved in the suit, as interpreted by the courts of the land, was clear.

"I have my mandate from the superior courts, which I take my orders from," he said. "I'm not the general who plans the war, I'm just a captain, on the firing line."

Simpson added that the 30-day effective date he will incorporate in his order not only will give the city time to revise its operational policies, but to file an appeal from his order if it desires to do so.

Crutchfield did not indicate whether or not an appeal would be made.

Supreme Court Outlaws, 7-2, Race Bias In Bus-Stop Cafes

The Courier-Journal
Louisville, Ky.
Washington, Dec. 5 (AP)—The Supreme Court Monday outlawed discrimination against Negro passengers in restaurants that regularly serve interstate bus travelers.

Avoiding constitutional questions that might have had an important bearing on other issues involving Negro rights, the court based its 7-to-2 decision on the Interstate Commerce Act.

Strikes Down Conviction

The ruling struck down the conviction of Bruce Boynton, a Negro traveling from Washington, D. C., to Selma, Ala., who refused to leave the restaurant for whites in the Trailways bus terminal in Richmond, Va.

Boynton was fined \$10 under a Virginia law which makes it a misdemeanor to refuse to leave premises on demand of persons in charge.

Justice Hugo L. Black, author of the decision, went no further than necessary to decide the case. He noted that constitutional questions had been raised in Boynton's appeal, including the due-process and equal-protection clauses of the 14th Amendment.

But Black said the Interstate Commerce Act "uses language of the broadest type to bar discriminations of all kinds."

Black said the court was not holding that every time a bus stops at an independent roadside restaurant the Interstate Commerce Act requires that restaurant service be supplied in harmony with the provisions of the act.

"We decide only this case, on its facts, where circumstances show that the terminal and restaurant operate as an integral part of the bus carrier's transportation service for interstate passengers," Black said.

Justice Charles Whittaker wrote a dissenting opinion in which Justice Tom C. Clark concurred.

Negroes Served In Louisville

(Greyhound bus passengers in Louisville will not be affected by the decision, James C. Ballow, assistant manager of the Greyhound terminal at Fifth and Broadway, said yesterday.

("Since the terminal was remodeled about two months ago," Ballow said, "it has served both Negro and white in the remodeled restaurant.")

Bus Cafe Ruling Is Welcome News

Atlanta Daily World
The Supreme Court in ruling that a Negro is entitled to service in a bus station restaurant if it is an "integral part" of an interstate line's service to its customers is welcome news.

The 7-2 decision is an implementation of previous rulings outlawing segregation in travel facilities and accommodations and will remove handicaps that have proved a nuisance to Negroes moving from state to state.

For a long time the denial of restaurant service in bus terminals has proved a burden upon Negro travelers. That the practice was continued while air and railroad lines have eliminated barriers, proved an annoyance and a burden upon interstate commerce and the Negro public.

The High Court has decreed that when a terminal and restaurant operate as "an integral part of the bus carrier's transportation service for interstate passengers" no one must be subjected to "any unjust or unreasonable prejudice or disadvantage in any respect whatsoever."

It should be noted restaurant facilities in 22 bus terminals—mostly in the South—have abandoned "white only" policies.

It would seem that the national interest, amity and goodwill, and the cause of tolerance and liberalism, would be served by yesterday's court action.

It is apparent now that any practice which restricts the concept of Americanism is not in keeping with the times.

Bus Restaurant Integration Is Backed By Court

O'ham World
O'ham, Ala
Sat. 12-10-60

Says Negro Entitled To Service Where Interstate Service Used

By CHARLOTTE G. MOULTON
(United Press International)

WASHINGTON (UPI)—The Supreme Court ruled Monday that a Negro is entitled to service in a bus station restaurant if it is an "integral part" of an interstate line's service to its customers.

On behalf of the majority in the 7-2 decision, Justice Hugo L. Black held that racial discrimination at such terminal restaurants violates the Interstate Commerce Act. Included in Monday's ruling were Justices Charles E. Whittaker and Tom C. Clark.

A spokesman for the bus company involved in the case said that within the last 60 days the independent firm which operates restaurant facilities in 22 terminals—mostly in the South—has abandoned "white only" policies.

L. L. Browning, traffic manager for Trailways, said this decision was taken by Bus Terminal Restaurants, Inc., of Raleigh, N. C., which controls and supervises eating facilities in Trailways Bus stations under lease.

LIMITS SCOPE OF RULING

The high court rather carefully limited the scope of its ruling. It made it clear that the ruling was not intended to apply the anti-discrimination provision of the Interstate Commerce Act "every time a bus stops at a wholly independent roadside restaurant."

But the opinion said that when a terminal and restaurant operate as "an integral part of the bus carrier's transportation service for interstate passengers," no one must be subjected to "any unjust or unreasonable prejudice or disadvantage in any respect whatsoever."

The appeal was brought to the high court by a Howard University student, Bruce Boynton, who tried to get service in a restaurant at Richmond, Va., while travelling from Washington to Selma, Ala., during the 1958 Christmas holidays.

The assistant manager had Boynton arrested when he insisted on being served. The Negro student was convicted and fined \$10 on a misdemeanor charge in a Richmond police court.

This conviction was set aside by Monday's ruling.

Virginia authorities cited state law which makes it a misdemeanor for any one to "go upon or remain upon the lands or premises of another after having been forbidden to do so by the owner."

QUESTION POLICE ACTION

Attorneys for Boynton and the Justice Department had argued that the use of local police to enforce segregation practices of a private restaurant violated the 14th Amendment.

This argument raised the entire question of sit-in demonstrations that have occurred in recent months. The court did not touch on this

ary for weapons systems. Three directorates for research and engineering; procurement and production and installations of all armed services would be set up under the undersecretary for weapons systems.

A new post of assistant to the defense secretary for arms control would be created. He would represent the Defense Department in disarmament planning with other departments, chiefly the State Department.

PROPOSE ADVISORY COUNCIL

Revision of the Joint Chiefs would involve appointment of a chairman who would preside over a new military advisory council. It would be composed of senior officers taken out of their services or retired men who would promise never to return to their individual services.

RESTAURANTS- BUS TERMINALS INTERSTATE BUS TRAVELERS

Bus Terminal Segregation Curbed by Supreme Court

The New York Times
New York

By ANTHONY LEWIS
Special to The New York Times.

WASHINGTON, Dec. 5—The Supreme Court held today that a bus terminal restaurant operated as "an integral part" of interstate bus service may not segregate passengers who are on a trip across state lines.

The decision will affect bus terminals in large cities throughout the South. But the court made clear that it did not cover roadside restaurants at which buses happen to stop. The vote was 7 to 2. It was the first time in some years that the court had been divided in a racial segregation case. The last dissent observers could recall was to a 1946 decision holding segregation on interstate bus lines an unconstitutional burden on commerce.

Justice Hugo L. Black wrote for the majority today, joined by Chief Justice Earl Warren and Justices Felix Frankfurter, William O. Douglas, John Marshall Harlan, William J. Brennan Jr. and Potter Stewart. The dissenters were Justices Charles E. Whittaker and Tom C. Clark, with the opinion by Justice Whittaker.

Commerce Act an Issue

At issue was the relevance of the Interstate Commerce Act, on which the majority opinion was based. The dissenters said the act was not properly in the case and at any rate did not prohibit segregation in these circumstances.

The case concerned Bruce Boynton, a Negro and a former law student at Howard University here. In 1958 he took a Trailway bus from Washington to his home in Selma, Ala.

The bus stopped at the Trailways Bus Terminal in Richmond, Va., for a forty-minute layover, and the passengers went in to eat. The terminal restaurant was divided into white and colored sections.

Mr. Boynton sat in the white section and was refused service. He was fined \$10. The state of Virginia conceded that the trespass conviction could not stand if anything in Federal law or the Constitution gave him a right to service in the restaurant. But it found no such right.

N.A.A.C.P. Legal Aid

The National Association for the Advancement of Colored People, whose lawyers represented Mr. Boynton, did not raise the Interstate Commerce Act in its petition to the Supreme Court.

Two Constitutional arguments were made. They were that Mr. Boynton's arrest was an unreasonable burden on commerce and denied him the equal protection of the laws—both arguments with far-reaching implications.

The Justice Department, coming in to the case as a friend of the court, raised the Commerce Act point. The court today relied entirely on that, and neither the majority nor the dissenters commented on the Constitutional questions.

Justice Whittaker said it was improper for the court even to consider the Commerce Act point because of the way it was raised. But Justice Black found consideration "appropriate" because racial discrimination was "the core" of the issue under the act as under the Constitution.

The Commerce Act forbids interstate buses to "subject any particular person to any unjust discrimination or any unjust or unreasonable prejudice." The provision is defined to include all vehicles and any "facilities or property operated or controlled" by the bus company.

The difficulty with applying the provision in this case was that there was no evidence in the trial record that the Trailways Company owned or controlled the Richmond terminal or its restaurant. The dissent argued from this that the act did not apply.

(AP)—The Trailways Bus Terminal Restaurant here, has been serving Negroes in its "white" section since mid-August. The chain that operates the restaurant, Bus Terminals Restaurants Inc., of Raleigh N.C., announced in August that Negro customers would be served in the previously all-white restaurant section of the terminal. The chain operates restaurants in Virginia. Integrated in August. RICHMOND, Va., Dec. 5

North Carolina, Maryland, West Virginia and Tennessee.

Association 'Gratified'

A spokesman for the National Association for the Advancement of Colored People said here yesterday the decision would open up a sizable number of dining facilities in the South to Negroes. "We are gratified to have this ruling. I assume it will mean an end to one more sector of embarrassment and second class treatment for Negro travelers."

Bus Restaurant Segregation Outlawed by Supreme Court

WASHINGTON — The Supreme Court held Monday that a bus terminal restaurant operated as "an integral part" of interstate bus service may not exclude Negroes who come in to eat during a trip across state lines.

The decision will affect bus terminals in large cities throughout the South. But the court made clear that it did not cover roadside restaurants at which buses happen to stop. The vote was 7 to 2. It was the first time in years that the court had divided in a racial segregation case. The last dissent observers could recall was to a 1946 decision holding segregation on interstate business an unconstitutional burden on commerce.

Justice Hugo L. Black wrote for the majority Monday, joined by Chief Justice Earl Warren and Justices Felix Frankfurter, William O. Douglas, John Marshall Harlan, William J. Brennan Jr. and Potter Stewart.

The dissenters were Justices Charles E. Whittaker and Tom C. Clark, with the opinion by Justice Whitaker.

At issue between the two sides was the relevance of the Interstate Commerce Act, on which the majority opinion was based. The dissenters said the act was not properly in the case and at any rate did not prohibit segregation in these circumstances.

The case concerned Bruce Boynton, a former law student at Howard University here. In 1958 he took a Trailways bus from Washington to his home in Selma, Alabama.

By ANTHONY LEWIS

(Copyright 1960, the New York Times Co.)

The bus stopped at the Trailways Terminal in Richmond, Va., for a 40-minute layover, and the passengers went in to eat. The Terminal Restaurant was divided into white and colored sections.

Boynton sat in the white section and ordered a sandwich and tea. He was refused service, and when he declined to leave, the police were called. He was convicted of trespass and fined \$10.

The State of Virginia conceded that the trespass conviction could not stand if anything in federal law or the Constitution gave him a right to service in the restaurant. But it found no such right.

The National Association for the Advancement of Colored People, whose lawyers represented Boynton, did not raise the Interstate Commerce Act in its petition to the Supreme Court.

Two constitutional arguments were made. They were that Boynton's arrest was an unreasonable burden on commerce and denied him the equal protection of the laws—both arguments were far-reaching implications.

The Justice department, entering the case as a friend of the court, raised the Commerce Act point. The court Monday relied entirely on that, and neither the majority nor the dissenters commenting on the constitutional questions.

Justice Whitaker said it was improper for the court even to consider the Commerce Act point

because of the way it was raised. But Justice Black found consideration "appropriate" because racial discrimination was "the core" of the issue under the act as under the constitutional arguments.

The Commerce Act forbids interstate buses to "subject any particular person to any unjust discrimination or any unjust unreasonable prejudice." The provision is defined to "include" all vehicles and any "facilities or property operated or controlled" by the bus company.

The difficulty with applying the provision in this case was that there was no evidence in the trial record that the Trailways company owned or controlled either the Richmond Terminal or its restaurant. The dissent argued from this that the act did not apply.

High Court Voids Arkansas Law Making Teachers List Affiliations

By James E. Clayton
Staff Reporter

An Arkansas law requiring all teachers to file a list of all the organizations they have belonged to for five years was struck down by the Supreme Court yesterday as unconstitutional.

Five justices held that the statute adopted by the Arkansas Legislature to help measure the fitness of teachers was so broad that it invaded the teachers' right of free association. Four justices said the statute, on its face, was a reasonable and constitutional way to screen teachers.

None of the justices said that Arkansas, or any other state, cannot ask teachers questions about the organizations they belong to. The sole difference bringing about the 5-4 decision was the majority's view that Arkansas wanted to know too much.

The majority's holding, as summed up from the bench by dissenting Justice John Marshall Harlan, is that Arkansas "can inquire into some of the associations of all of its teachers or all of the associations of some of its teachers but not all of the associations of all of its teachers."

Justice Potter Stewart, who wrote the majority decision, said it was "the unlimited and indiscriminate sweep of the statute" which made it uncon-

freedom goes far beyond what might be justified in the exercise of a state's legitimate inquiry into the fitness and competency of its teachers," he wrote.

The law, Justice Stewart pointed out, required a teacher to reveal the church to which he belongs, the political party to which he may have contributed, and every conceivable kind of tie—social, professional, political, avocational or religious.

A state, Justice Stewart said, may investigate the competence and fitness of teachers. But it may not do so by a means which "broadly stifles fundamental personal liberties when the need can be more narrowly achieved."

Justice Stewart cast the fifth vote which overturned the statute, joining Chief Justice Earl Warren and Justices Hugo L. Black, William O. Douglas and William J. Brennan Jr. The latter four have been the liberal bloc on the Court in recent years, occasionally picking up a fifth vote in civil liberties cases. Justice Stewart joined them last spring in striking down a Los Angeles ordinance curtailing handbills. In years past, the four have been more often in dissent than in the majority.

Justice Harlan said in dissent that he could not hold that the law was too broad because he thinks it impossible to say what is permissible and what is not permissible at this time.

Supreme Court brushes aside Louisiana 'interposition' argument, refuses to end New Orleans school desegregation. Page A3

High Court refuses review of decision limiting President's tariff powers. Page A13.

stitutional. Its "comprehensive interference with associational